

ENVIRONMENT, ENERGY & TECHNOLOGY

ADMINISTRATIVE RULES REVIEW

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2006 Legislative Session

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The amendment to the temporary rule is effective December 7, 2005. This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that the Board has adopted a pending rule and amended a temporary rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) conducted negotiated rulemaking to make changes to sections of the Rules for the Control of Air Pollution in Idaho (Rules) that pertain to sources of air pollution that were deferred from the Title V permitting program as defined in IDAPA 58.01.01.301.02.b.iv. IDAPA 58.01.01.313.01.e.i stated that deferred sources were required to submit a Tier I operating permit application no later than June 1, 2005. DEQ anticipated that the Environmental Protection Agency (EPA), by December 2004, would have decided whether to require the deferred sources to submit an application; however, that decision has not been issued. Therefore, DEQ was required to put a rule in place on or before June 1, 2005 in order to address this issue.

In May 2005 the Board of Environmental Quality (Board) adopted a temporary rule allowing DEQ to exempt deferred sources from the requirement to obtain a Tier I operating permit unless EPA decides differently. In July 2005, DEQ published the temporary/proposed rule, inviting the public to comment on the rule. Idaho Administrative Bulletin, July 6, 2005, Vol. 05-7, pages 73 through 77. No public comments were received. After publication of the temporary/proposed rule, DEQ discovered that the rule was incomplete; a sentence in Subsection 794.03 should have been deleted but was not. The pending rule adopted by the Board contains the necessary revision and the temporary rule has been amended accordingly. The remaining sections have been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Board amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the

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July 6, 2005, Idaho Administrative Bulletin, Vol. 05-7, pages 73 through 77.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mike Simon at michael.simon@deq.idaho.gov, (208)373-0212.

DATED this 2nd day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton, Boise, Idaho 83706-1255
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The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is May 31, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality (DEQ) is commencing proposed rulemaking. This action is authorized by Sections 39-105 and 39-107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, July 22, 2005.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: DEQ conducted negotiated rulemaking to make changes to sections of the Rules for the Control of Air Pollution in Idaho that pertain to sources of air

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pollution that were deferred from the Title V permitting program as defined in IDAPA 58.01.01.301.02.b.iv.

IDAPA 58.01.01.313.01.e.i. stated that deferred sources were required to submit a Tier I operating permit application no later than June 1, 2005. DEQ anticipated that the Environmental Protection Agency (EPA), by December 2004, would have decided whether to require the deferred sources to submit an application; however, that decision has not been issued. Therefore, DEQ was required to put a rule in place on or before June 1, 2005 in order to address this issue.

In conjunction with members of the regulated community and other interested parties, DEQ initiated rulemaking and negotiated a temporary/proposed rule allowing DEQ to exempt deferred sources from the requirement to obtain a Tier I operating permit unless EPA decides differently. The Board of Environmental Quality adopted the temporary rule on May 17, 2005.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality for adoption of a pending rule in October 2005. The pending rule will become final upon the conclusion of the 2006 session of the Idaho Legislature if approved by the Legislature.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is necessary to meet deadlines in federal law.

IDAHO CODE SECTION 39-107D STATEMENT: This temporary/proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the Idaho Administrative Bulletin, March 2, 2005, Vol. 05-3, page 24.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Mike Simon at (208)373-0212, msimon@deq.idaho.gov.

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Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before August 5, 2005.

DATED this 3rd day of June, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

006. GENERAL DEFINITIONS.

No changes are being made to Subsections 006.01 through 006.101.

102. Tier I Source. Any of the following: (5-1-94)

a. Any source located at any major facility as defined in Section 008; (4-5-00)

b. Any source, including an area source, subject to a standard, limitation, or other requirement under 42 U.S.C. Section 7411 or 40 CFR Part 60, and required by EPA to obtain a Part 70 permit; ~~(5-1-94)~~(5-31-05)T

c. Any source, including an area source, subject to a standard or other requirement under 42 U.S.C. Section 7412, 40 CFR Part 61 or 40 CFR Part 63, and required by EPA to obtain a Part 70 permit, except that a source is not required to obtain a permit solely because it is subject to requirements under 42 U.S.C. Section 7412(r); ~~(5-1-94)~~(5-31-05)T

d. Any Phase II source; and (5-1-94)

e. Any source in a source category designated by the Department. (5-1-94)

The remainder of this Section (006.103 -- 114) has no changes.

(BREAK IN CONTINUITY OF SECTIONS)

301. REQUIREMENT TO OBTAIN TIER I OPERATING PERMIT.

01. Prohibition. No owner or operator shall operate, or allow or tolerate the operation of, any Tier I source without an effective Tier I operating permit. (5-1-94)

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02. Exceptions. (3-23-98)

a. No Tier I operating permit is required if the owner or operator is in compliance with Sections 311 through 315 and the Department has not taken final action on the application. (5-1-94)

b. Tier I sources not located at major facilities do not require a Tier I operating permit until: (3-23-98)

i. December 31, 1997 for Phase II sulfur dioxide sources; (3-23-98)

ii. January 1, 1999 for Phase II nitrogen oxides sources; (3-23-98)

iii. January 1, 2000 for solid waste incineration units required to obtain a permit pursuant to 42 U.S.C. Section 7429(e); and (3-23-98)

iv. ~~June 1, 2001 for all other such sources, unless an earlier date is required by an applicable standard or EPA determines that no Tier I operating permit is required. All other such sources may request deferral of the Tier I operating permit requirements until June 1, 2006, or such time as the Department provides written notification of an earlier date, by registering the source in accordance with Subsection 313.01.e.~~ The source becomes a Tier I source under Section 006 of this chapter. ~~(3-30-01)(5-31-05)T~~

c. No Tier I operating permit is required for the following Tier I sources: (5-1-94)

i. All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 60, Subpart AAA; and (5-1-94)

ii. All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 61.145. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

313. TIMELY APPLICATION.

01. Original Tier I Operating Permits. (5-1-94)

a. For Tier I sources existing on May 1, 1994, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit by no later than June 1, 1996, or within twelve (12) months of EPA approval of the Tier I operating program, whichever is earlier, unless: (3-20-97)

i. The Department provides written notification of an earlier date to the owner or operator. (5-1-94)

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- ii. The Tier I source is identified in Subsections 301.02.b. or 301.02.c. (5-1-94)
- b. For sources that become Tier I sources after May 1, 1994, that are located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit within twelve (12) months after becoming a Tier I source or commencing operation, unless: (3-23-98)
 - i. The Department provides written notification of an earlier date to the owner or operator. (5-1-94)
 - ii. The Tier I source is identified in Subsections 301.02.b. or 301.02.c. (5-1-94)
- c. For initial phase II acid rain sources identified in Subsections 301.02.b.i. or 301.02.b.ii., the owner or operator of the initial Phase II acid rain source shall submit to the Department a complete application for an original Tier I operating permit by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides. (3-23-98)
- d. For Tier I sources identified in Subsection 301.02.b.iii.: (3-23-98)
 - i. Existing on July 1, 1998, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit by no later than January 1, 1999, unless the Department provides written notification of an earlier date to the owner or operator. (3-23-98)
 - ii. That become Tier I sources after July 1, 1998, located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit within twelve (12) months after becoming a Tier I source or commencing operation, unless the Department provides written notification of an earlier date to the owner or operator. (3-23-98)
- ~~e. For Tier I sources identified in Subsection 301.02.b.iv.: (3-23-98)~~
 - ~~i. Existing on January 1, 2000, the owner or operator of the Tier I source shall register the source by submitting the information listed in Subsection 313.01.f. to the Department no later than May 1, 2001. Complete applications for an original Tier I operating permit for sources registered by May 1, 2001 shall be submitted to the Department no later than June 1, 2005, unless the Department provides written notification of an earlier date to the owner or operator. Any additional plans, specifications, evidence or documents that the Department may require to complete an evaluation of a registered source shall be furnished on request. (5-3-03)~~
 - ~~ii. That become Tier I sources after January 1, 2000 but before January 1, 2005, and are located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source shall register the source by submitting the information listed in Subsection 313.01.f. to the Department no later than twelve (12) months after becoming a Tier I source or commencing operation. Complete applications for an original Tier I operating permit for a Tier I source that registers under this provision shall be submitted to the Department no later than June 1, 2005, unless the Department provides written notification of an earlier date to~~

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~~the owner or operator. Any additional plans, specifications, evidence or documents that the Department may require to complete the evaluation of a registered source shall be furnished on request.~~ (5-3-03)

~~iii. That become Tier I sources after January 1, 2005, that are located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit within twelve (12) months after becoming a Tier I source or commencing operation, unless the Department provides written notification of an earlier date to the owner or operator.~~ (3-30-01)

~~f. The registration information required under Subsection 313.01.e. includes the following:~~ (5-3-03)

~~i. Facility information. The name, address, telephone number, and location of the facility.~~ (3-30-01)

~~ii. Owner/operator information. The name, address, and telephone numbers of the owners and operators.~~ (3-30-01)

~~iii. Facility emissions units. The number and type of emissions units present at the facility.~~ (3-30-01)

~~iv. Pollutant registration. The emissions from the previous calendar year, or other twelve (12) month period requested by the registrant and approved by the Department, for any regulated air pollutant based on actual annual emissions and/or an estimate of the actual annual emissions calculated using the unit's actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year. Additional detailed information on sources, stacks, and emissions may be requested by the Department on an annual basis.~~ (3-30-01)

02. Earlier Dates During Initial Period. Except as otherwise provided in these rules, during the initial period which begins May 1, 1994 and ends three (3) years after EPA approval of the Tier I operating program, the Department may designate Tier I sources for processing as follows: (5-1-94)

a. The Department may develop a general estimate of the total work load and benefits associated with the Tier I operating permit applications that are predicted to be submitted during the initial period including, but not limited to, original permit applications and significant permit modification applications. (3-19-99)

b. Considering the complexity of the applications, air quality benefits of permitting and requests for early actions from owners and operators, the Department may divide the applications into three (3) groups each representing approximately one-third (1/3) of the total work load and benefits. (5-1-94)

c. The Department may prioritize the three (3) groups and the Tier I sources within each group for processing, establish early application deadlines and notify the owners or operators of the Tier I sources in the group in writing of a required submittal date earlier than the general

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deadlines provided in Subsection 313.01.

(5-1-94)

03. Renewals of Tier I Operating Permits. The owner or operator of the Tier I source shall submit a complete application to the Department for a renewal of the Tier I operating permit at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing Tier I operating permit. To ensure that the term of the operating permit does not expire before the permit is renewed, the owner or operator is encouraged to submit the application nine (9) months prior to expiration.

(4-5-00)

04. Changes to Tier I Operating Permits. Sections 380 through 386 provide the requirements and procedures for changes at Tier I sources and to Tier I operating permits.

(3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

794. PERMIT REQUIREMENTS.

No owner or operator may commence construction, modification or operation of any source at a nonmetallic mineral processing plant without first obtaining a permit or complying with Sections 795 through 799. The owner or operator shall comply with the permitting requirements of Subsection 794.01 or Subsection 794.02 and the applicable portions of Subsection 794.03 and/or Subsection 794.04.

(3-15-02)

01. Permit by Rule. Owners and operators of nonmetallic mineral processing plants that meet all of the applicable requirements set forth in Sections 795 through 799 shall be deemed to have a permit by rule (PBR) and shall not be required to obtain a permit to construct under Sections 200 through 228.

(3-15-02)

02. Permit to Construct. Owners and operators of nonmetallic mineral processing plants that do not meet all of the requirements set forth in Sections 795 through 799, or that operate or intend to operate a nonmetallic mineral processing plant at a single site of operations for more than twelve (12) consecutive months, or that choose to construct and operate under specific permit requirements rather than the provisions of the permit by rule shall obtain a permit to construct pursuant to Sections 200 through 228. An existing permit to construct shall be considered valid until the permit is modified, incorporated into a Tier II operating permit, or terminated by the Department. Existing permits to construct may be terminated by the Department by registering the source under the permit by rule provisions in accordance with Section 797 after June 15, 2001.

(3-15-02)

03. Tier I Operating Permits. Owners and operators of nonmetallic mineral processing plants that are affected facilities subject to a requirement of the New Source Performance Standards (NSPS) in 40 CFR 60 are Tier I sources as defined in Section 006. Tier I sources must comply with the applicable permitting requirements of Sections 300 through 399. ~~Sources that are not located at major facilities may request deferral in accordance with Subsection 301.02.b.iv. and Subsection 313.01.e.~~

~~(3-15-02)(12-7-05)T~~

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04. Tier II Operating Permits. Owners and operators of nonmetallic mineral processing plants that are required by the Department or choose to obtain a Tier II operating permit pursuant to Sections 400 through 410 shall operate in accordance with the specific provisions of the Tier II operating permit until such time as the operating permit is terminated in writing by the Department. The Department may require owners and operators of nonmetallic mineral processing plants to obtain a Tier II operating permit whenever the Department determines that: (3-15-02)

a. Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or (3-15-02)

b. Specific emissions standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. (3-15-02)

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0503

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code. In addition, the Idaho Legislature directed the Department of Environmental Quality (DEQ) to promulgate rules pursuant to House Bill 230 and Senate Bill 1228 (codified at Section 39-115, Idaho Code).

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 3, 2005, Vol. 05-8, pages 308 through 339. One public comment was received. The rule has not been revised in response to that comment. However, the definition of Modification at Subsection 006.56 has been revised. The sponsors of House Bill 230 and its trailer bill, Senate Bill 1228, acknowledged and agreed that the legislation did not alter the state's existing state only toxic air pollutant program. In revising the definition of Regulated Air Pollutant as a result of the legislation, and in revising the definition of Modification to make the state's minor permitting program consistent with the major program, the state only toxic air pollutant review was inadvertently removed. Subsection 006.56.b clarifies the intent of H230 and S1228 and ensures the state only toxic air pollutant program continues to operate as it has since inception.

The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the August 3, 2005 Idaho Administrative Bulletin, Vol. 05-8, pages 308 through 339.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit

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DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Martin Bauer at (208) 373-0440, martin.bauer@deq.idaho.gov.

DATED this 17th day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

September 7, 2005, 4 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: House Bill 230 and Senate Bill 1228 require the Department of Environmental Quality (DEQ) to adopt rules that define the term "regulated air pollutant" as it applies to various Clean Air Act (CAA) permit to construct and operating permit programs. In addition, these bills require DEQ to adopt rules that are consistent with the CAA and its implementing regulations in regard to the permit applicability treatment of fugitive emissions.

Revisions to the Rules for the Control of Air Pollution in Idaho will clarify certain rule sections and permit requirements to ensure consistency with federal CAA requirements.

The text of the rule was developed by DEQ in conjunction with a negotiating committee

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made up of persons having an interest in the development of this rule. All major and non-major sources of air pollution may be interested in commenting on this proposed rule. Special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may also wish to submit comments on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, May 4, 2005, Volume 05-5, page 112.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440, martin.bauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 7, 2005.

DATED this 1st day of July, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

006. GENERAL DEFINITIONS.

Subsections 006.01 the through 006.09 have no changes

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10. Ambient Air Quality Violation. Any ambient concentration ~~of any regulated air pollutant~~ that causes or contributes to an exceedance of a national ambient air quality standard as determined by 40 CFR Part 50. (4-5-00)(____)

11. Atmospheric Stagnation Advisory. An air pollution alert declared by the Department when ~~regulated~~ air pollutant impacts have been observed and/or meteorological conditions are conducive to additional ~~regulated~~ air pollutant buildup. (4-5-00)(____)

12. Attainment Area. Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as having ambient concentrations equal to or less than national primary or secondary ambient air quality standards for a particular ~~regulated~~ air pollutant or air pollutants. (4-5-00)(____)

13. Baseline (Area, Concentration, Date). See Section 579. (5-1-94)

~~**14. Best Available Control Technology (BACT).** An emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each pollutant subject to regulation under the Clean Air Act which would be emitted from any proposed major facility or major modification which the Department, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such proposed major facility or major modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any regulated air pollutant which would exceed the emission allowed by any applicable standard under 40 CFR Parts 60 and 61. If the Department determines that technological or economic limitations on the application of measurement methodology to a particular emission unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.~~ (4-5-00)

154. Board. Idaho Board of Environmental Quality. (5-1-94)

165. Breakdown. An unplanned failure of any equipment or emissions unit which may cause excess emissions. (4-5-00)

176. BTU. British thermal unit. (5-1-94)

187. Clean Air Act. The federal Clean Air Act, 42 U.S.C. Sections 7401 through 7671q. (5-1-94)

198. Collection Efficiency. The overall performance of the air cleaning device in terms of ratio of materials collected to total input to the collector unless specific size fractions of the contaminant are stated or required. (5-1-94)

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2019. Commence Construction or Modification. In general, this means initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change. (4-5-00)

240. Complete. A determination made by the Department that all information needed to process a permit application has been submitted for review. (5-1-94)

221. Construction. Fabrication, erection, installation, or modification of a stationary source or facility. (5-1-94)

232. Control Equipment. Any method, process or equipment which removes, reduces or renders less noxious, air pollutants discharged into the atmosphere. (5-1-94)

243. Controlled Emission. An emission which has been treated by control equipment to remove all or part of an air pollutant before release to the atmosphere. (5-1-94)

254. Criteria Air Pollutant. Any of the following: PM-10; sulfur oxides; ozone, nitrogen dioxide; carbon monoxide; lead. (4-5-00)

265. Department. The Department of Environmental Quality. (5-1-94)

276. Designated Facility. Any of the following facilities: (5-1-94)

a. Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; (5-1-94)

b. Coal cleaning plants (thermal dryers); (5-1-94)

c. Kraft pulp mills; (5-1-94)

d. Portland cement plants; (5-1-94)

e. Primary zinc smelters; (5-1-94)

f. Iron and steel mill plants; (5-1-94)

g. Primary aluminum ore reduction plants; (5-1-94)

h. Primary copper smelters; (5-1-94)

i. Municipal incinerators capable of charging more than two hundred and fifty (250) tons of refuse per day; (5-1-94)

j. Hydrofluoric, sulfuric, and nitric acid plants; (5-1-94)

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- k.** Petroleum refineries; (5-1-94)
- l.** Lime plants; (5-1-94)
- m.** Phosphate rock processing plants; (5-1-94)
- n.** Coke oven batteries; (5-1-94)
- o.** Sulfur recovery plants; (5-1-94)
- p.** Carbon black plants (furnace process); (5-1-94)
- q.** Primary lead smelters; (5-1-94)
- r.** Fuel conversion plants; (5-1-94)
- s.** Sintering plants; (5-1-94)
- t.** Secondary metal production facilities; (5-1-94)
- u.** Chemical process plants; (5-1-94)
- v.** Fossil-fuel boilers (or combination thereof) of more than two hundred and fifty (250) million BTU's per hour heat input; (5-1-94)
- w.** Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; (5-1-94)
- x.** Taconite ore processing facilities; (5-1-94)
- y.** Glass fiber processing plants; and (5-1-94)
- z.** Charcoal production facilities. (5-1-94)

287. **Director.** The Director of the Department of Environmental Quality or his designee. (5-1-94)

298. **Effective Dose Equivalent.** The sum of the products of absorbed dose and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its distribution in the body of reference man. The unit of the effective dose equivalent is the rem. It is generally calculated as an annual dose. (5-1-94)

3029. **Emission.** Any controlled or uncontrolled release or discharge into the outdoor atmosphere of any air pollutants or combination thereof. Emission also includes any release or discharge of any air pollutant from a stack, vent, or other means into the outdoor atmosphere that originates from an emission unit. (5-1-94)

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340. Emission Standard. A permit or regulatory requirement established by the Department or EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction. (4-5-00)

321. Emissions Unit. An identifiable piece of process equipment or other part of a facility which emits or may emit any air pollutant. This definition does not alter or affect the term "unit" for the purposes of 42 U.S.C. Sections 7651 through 7651o. (5-1-94)

332. EPA. The United States Environmental Protection Agency and its Administrator or designee. (5-1-94)

343. Environmental Remediation Source. A stationary source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, any hazardous waste or hazardous substance from any soil, ground water or surface water, and shall have an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. Nothing in this definition shall be construed so as to actually limit remediation projects to five (5) years or less of total operation. (5-1-95)

354. Excess Emissions. Emissions ~~of any regulated air pollutant that~~ exceeding an applicable emissions standard established for any facility, source or emissions unit by statute, regulation, rule, permit, or order. (4-5-00)()

365. Existing Stationary Source or Facility. Any stationary source or facility that exists, is installed, or is under construction on the original effective date of any applicable provision of this chapter. (5-1-94)

376. Facility. All of the pollutant-emitting activities which belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual. The fugitive emissions shall not be considered in determining whether a permit is required unless required by federal law. (4-5-00)()

387. Federal Class I Area. Any federal land that is classified or reclassified "Class I" pursuant to Section 580. (5-1-94)

398. Federal Land Manager. The Secretary of the federal department with authority over any federal lands in the United States. (5-1-94)

4039. Fire Hazard. The presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare or adjacent lands. (5-1-94)

440. Fuel-Burning Equipment. Any furnace, boiler, apparatus, stack and all

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appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer. (5-1-94)

421. Fugitive Dust. Fugitive emissions composed of particulate matter. (5-1-94)

432. Fugitive Emissions. Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. (5-1-94)

443. Garbage. Any waste consisting of putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food including, but not limited to, waste materials from households, markets, storage facilities, handling and sale of produce and other food products. (5-1-94)

454. Grain Elevator. Any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded. (5-1-94)

465. Grain Storage Elevator. Any grain elevator located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean extraction plant which has a permanent grain storage capacity of thirty five thousand two hundred (35,200) cubic meters (ca. 1 million bushels). (5-1-94)

476. Grain Terminal Elevator. Any grain elevator which has a permanent storage capacity of more than eighty-eight thousand one hundred (88,100) cubic meters (ca. 2.5 million bushels), except those located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots. (5-1-94)

487. Hazardous Air Pollutant (HAP). Any air pollutant listed ~~in or~~ pursuant to Section 112(b) of the Clean Air Act. Hazardous Air Pollutants are regulated air pollutants.
(4-5-00)()

498. Hazardous Waste. Any waste or combination of wastes of a solid, liquid, semisolid, or contained gaseous form which, because of its quantity, concentration or characteristics (physical, chemical or biological) may: (5-1-94)

a. Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible, or incapacitating reversible illnesses; or (5-1-94)

b. Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties; provided that such wastes do not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are allowed under a national pollution discharge elimination system permit, or source, special nuclear, or by-product material as defined by 42 U.S.C. Sections 2014(e),(z) or (aa). (5-1-94)

5049. Hot-Mix Asphalt Plant. Those facilities conveying proportioned quantities or batch loading of cold aggregate to a drier, and heating, drying, screening, classifying, measuring

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and mixing the aggregate and asphalt for the purpose of paving, construction, industrial, residential or commercial use. (5-1-94)

540. Incinerator. Any source consisting of a furnace and all appurtenances thereto designed for the destruction of refuse by burning. "Open Burning" is not considered incineration. For purposes of these rules, the destruction of any combustible liquid or gaseous material by burning in a flare stack shall be considered incineration. (5-1-94)

521. Indian Governing Body. The governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government. (5-1-94)

532. Kraft Pulping. Any pulping process which uses, for a cooking liquor, an alkaline sulfide solution containing sodium hydroxide and sodium sulfide. (5-1-94)

543. Lowest Achievable Emission Rate (LAER). For any source, the more stringent rate of emissions based on the following: (4-5-00)

a. The most stringent emissions limitation which is contained in any State Implementation Plan for such class or category of facility, unless the owner or operator of the proposed facility demonstrates that such limitations are not achievable; or (4-5-00)

b. The most stringent emissions limitation which is achieved in practice by such class or category of facilities. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the facility. In no event shall the application of the term permit a proposed new or modified facility to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance. (4-5-00)

554. Member of the Public. For purposes of Subsection 006.9289.a.xvi., a person located at any off-site point where there is a residence, school, business or office. ~~(4-5-00)~~()

565. Modification. ()

a. Any physical change in, or change in the method of operation of, a stationary source or facility which ~~increases the amount of any regulated air pollutant emitted by such stationary source or facility results in an emission increase as defined in Section 007 or which results in the emission of any regulated air pollutant not previously emitted. except that routine maintenance, repair and replacement shall not be considered physical changes, and the following shall not be considered a change in the method of operation:~~ (4-5-00)()

b. Any physical change in, or change in the method of operation of, a stationary source or facility which results in an increase in the emissions rate of any state only toxic air pollutant, or emissions of any state only toxic air pollutant not previously emitted. ()

c. Fugitive emissions shall not be considered in determining whether a permit is required for a modification unless required by federal law. ()

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d. For purposes of Subsections 006.55.a. and 006.55.b., routine maintenance, repair and replacement shall not be considered physical changes and the following shall not be considered a change in the method of operation: ()

ai. An increase in the production rate if such increase does not exceed the operating design capacity of the affected stationary source, and if a more restrictive production rate is not specified in a permit; (5-1-94)

bii. An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and (5-1-94)

ciii. Use of an alternative fuel or raw material if the stationary source is specifically designed to accommodate such fuel or raw material and use of such fuel or raw material is not specifically prohibited in a permit. (4-5-00)

576. Monitoring. Sampling and analysis, in a continuous or noncontinuous sequence, using techniques which will adequately measure emission levels and/or ambient air concentrations of air pollutants. (5-1-94)

587. Multiple Chamber Incinerator. Any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of three (3) or more refractory lined combustion furnaces in series physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate parameters necessary for maximum combustion of the material to be burned. (5-1-94)

598. New Stationary Source or Facility. (5-1-94)

a. Any stationary source or facility, the construction or modification of which is commenced after the original effective date of any applicable provision of this chapter; or (5-1-94)

b. The restart of a nonoperating facility shall be considered a new stationary source or facility if: (5-1-94)

i. The restart involves a modification to the facility; or (5-1-94)

ii. After the facility has been in a nonoperating status for a period of two (2) years, and the Department receives an application for a Permit to Construct in the area affected by the existing nonoperating facility, the Department will, within five (5) working days of receipt of the application notify the nonoperating facility of receipt of the application for a Permit to Construct. Upon receipt of this Departmental notification, the nonoperating facility will comply with the following restart schedule or be considered a new stationary source or facility when it does restart: Within thirty (30) working days after receipt of the Department's notification of the application for a Permit to Construct, the nonoperating facility shall provide the Department with a schedule detailing the restart of the facility. The restart must begin within sixty (60) days of the date the Department receives the restart schedule. (5-1-94)

6059. Nonattainment Area. Any area which is designated, pursuant to 42 U.S.C.

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Section 7407(d), as not meeting (or contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant.

(5-1-94)

640. Noncondensibles. Gases and vapors from processes that are not condensed at standard temperature and pressure unless otherwise specified.

(5-1-94)

621. Odor. The sensation resulting from stimulation of the human sense of smell.

(5-1-94)

632. Opacity. A state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view, expressed as percent.

(5-1-94)

643. Open Burning. The burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack, duct or chimney.

(5-1-94)

654. Operating Permit. A permit issued by the Director pursuant to Sections 300 through 386 and/or 400 through 461.

(4-5-00)

665. Particulate Matter. Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions.

(5-1-94)

676. Particulate Matter Emissions. All particulate matter emitted to the ambient air as measured by an applicable reference method, or any equivalent or alternative method in accordance with Section 157.

(4-5-00)

687. Permit to Construct. A permit issued by the Director pursuant to Sections 200 through 228.

(7-1-02)

698. Person. Any individual, association, corporation, firm, partnership or any federal, state or local governmental entity.

(5-1-94)

7069. PM-10. All particulate matter in the ambient air with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

(5-1-94)

740. PM-10 Emissions. All particulate matter, including condensible particulates, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method in accordance with Section 157.

(4-5-00)

721. Potential to Emit/Potential Emissions. The maximum capacity of a facility to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the facility to emit an air pollutant, provided the limitation or its effect on emissions is state or federally enforceable, shall be treated as part of its design. Limitations may include, but are not limited to, air pollution control equipment, restrictions on

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hours of operation and restrictions on the type or amount of material combusted, stored or processed. This definition does not alter or affect the term “capacity factor” as defined in 42 U.S.C. Sections 7651 through 7651o. (4-5-00)

732. Portable Equipment. Equipment which is designed to be dismantled and transported from one (1) job site to another job site. (5-1-94)

743. PPM (parts per million). Parts of a gaseous contaminant per million parts of gas by volume. (5-1-94)

754. Prescribed Fire Management Burning. The controlled application of fire to wildland fuels in either their natural or modified state under such conditions of weather, fuel moisture, soil moisture, etc., as will allow the fire to be confined to a predetermined area and at the same time produce the intensity of heat and rate of spread required to accomplish planned objectives, including: (5-1-94)

- a. Fire hazard reduction; (5-1-94)
- b. The control of pests, insects, or diseases; (5-1-94)
- c. The promotion of range forage improvements; (5-1-94)
- d. The perpetuation of natural ecosystems; (5-1-94)
- e. The disposal of woody debris resulting from a logging operation, the clearing of rights of way, a land clearing operation, or a driftwood collection system; (5-1-94)
- f. The preparation of planting and seeding sites for forest regeneration; and (5-1-94)
- g. Other accepted natural resource management purposes. (5-1-94)

765. Primary Ambient Air Quality Standard. That ambient air quality which, allowing an adequate margin of safety, is requisite to protect the public health. (5-1-94)

776. Process or Process Equipment. Any equipment, device or contrivance for changing any materials whatever or for storage or handling of any materials, and all appurtenances thereto, including ducts, stack, etc., the use of which may cause any discharge of an air pollutant into the ambient air but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment. (5-1-94)

787. Process Weight. The total weight of all materials introduced into any source operation which may cause any emissions of particulate matter. Process weight includes solid fuels charged, but does not include liquid and gaseous fuels charged or combustion air. Water which occurs naturally in the feed material shall be considered part of the process weight. (5-1-94)

798. Process Weight Rate. The rate established as follows: (5-1-94)

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a. For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof; (4-5-00)

b. For cyclical or batch source operations, the total process weight for a period that covers a complete cycle of operation or an integral number of cycles, divided by the hours of actual process operation during such a period. Where the nature of any process or operation or the design of any equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply. (4-5-00)

8079. Quantifiable. The Department must be able to determine the emissions impact of any SIP trading programs requirement(s) or emission limit(s). (4-5-00)

840. Radionuclide. A type of atom which spontaneously undergoes radioactive decay. (5-1-94)

821. Regulated Air Pollutant. ~~The following air pollutants:~~ (4-5-00)()

a. ~~Nitrogen oxides or any volatile organic compounds.~~ For purposes of determining applicability of major source permit to operate requirements, issuing, and modifying permits pursuant to Sections 300 through 397, and in accordance with Title V of the federal Clean Air Act amendments of 1990, 42 U.S.C. Section 7661 et seq., “regulated air pollutant” shall have the same meaning as in Title V of the federal Clean Air Act amendments of 1990, and any applicable federal regulations promulgated pursuant to Title V of the federal Clean Air Act amendments of 1990, 40 CFR Part 70; (4-5-00)()

b. ~~Any pollutant for which a national ambient air quality standard has been promulgated.~~ For purposes of determining applicability of any other operating permit requirements, issuing, and modifying permits pursuant to Sections 400 through 410, the federal definition of “regulated air pollutant” as defined in Subsection 006.81.a. shall also apply; (4-5-00)()

c. ~~Any pollutant that is subject to any standard promulgated under 42 U.S.C. Section 7411.~~ For purposes of determining applicability of permit to construct requirements, issuing, and modifying permits pursuant to Sections 200 through 228, except Section 214, and in accordance with Part D of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7501 et seq., “regulated air pollutant” shall mean those air contaminants that are regulated in non-attainment areas pursuant to Part D of Subchapter I of the federal Clean Air Act and applicable federal regulations promulgated pursuant to Part D of Subchapter I of the federal Clean Air Act, 40 CFR 51.165; and (4-5-00)()

d. ~~Any Class I or II substance subject to a standard promulgated under or established under 42 U.S.C. Sections 7671a(a) or 7671a(b).~~ For purposes of determining applicability of any other major or minor permit to construct requirements, issuing, and modifying permits pursuant to 200 through 228, except Section 214, “regulated air pollutant” shall mean those air contaminants that are regulated in attainment and unclassifiable areas pursuant to Part C of Subchapter I of the federal Clean Air Act, 40 CFR 52.21, and any applicable federal regulations promulgated pursuant to Part C of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7470 et seq.

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(4-5-00)()

~~e. Any air pollutant subject to a standard promulgated under 42 U.S.C. Section 7412 or other requirements established under 42 U.S.C. Section 7412, including 42 U.S.C. Section 7412(g), (j), and (r), including the following: (4-5-00)~~

~~i. Any air pollutant subject to requirements under 42 U.S.C. Section 7412(j). If the EPA fails to promulgate a standard by the date established pursuant to 42 U.S.C. Section 7412(e), any air pollutant for which a subject source would be major shall be considered to be regulated on the date eighteen (18) months after the applicable date established pursuant to 42 U.S.C. Section 7412(e); and (4-5-00)~~

~~ii. Any air pollutant for which the requirements of 42 U.S.C. Section 7412(g)(2) have been met, but only with respect to the individual source subject to 42 U.S.C. Section 7412(g)(2) requirement. (4-5-00)~~

~~f. Any air pollutant listed in Sections 585, 586, or subject to regulation pursuant to Section 161. Unless otherwise listed in Subsections 006.84.a. through 006.84.e., these pollutants do not constitute regulated air pollutants for purposes of Sections 300 through 399. (7-1-02)~~

832. Replicable. Any SIP procedures for applying emission trading shall be structured so that two (2) independent entities would obtain the same result when determining compliance with the emission trading provisions. (4-5-00)

843. Responsible Official. One (1) of the following: (5-1-94)

a. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one (1) or more manufacturing, production, or operating facilities applying for or subject to a permit and either: (5-1-94)

i. The facilities employ more than two hundred fifty (250) persons or have gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) (in second quarter 1980 dollars); or (4-5-00)

ii. The delegation of authority to such representative is approved in advance by the Department. (5-1-94)

b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively. (5-1-94)

c. For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of Section 123, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA). (4-5-00)

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d. For Phase II sources: (5-1-94)

i. The designated representative in so far as actions, standards, requirements, or prohibitions under 42 U.S.C. Sections 7651 through 7651o or the regulations promulgated thereunder are concerned; and (5-1-94)

ii. The designated representative for any other purposes under 40 CFR Part 70. (5-1-94)

854. Safety Measure. Any shutdown (and related startup) or bypass of equipment or processes undertaken to prevent imminent injury or death or severe damage to equipment or property which may cause excess emissions. (4-5-00)

865. Salvage Operation. Any source consisting of any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers, or drums, and specifically including automobile graveyards and junkyards. (5-1-94)

876. Scheduled Maintenance. Planned upkeep, repair activities and preventative maintenance on any air pollution control equipment or emissions unit, including process equipment, and including shutdown and startup of such equipment. (3-20-97)

887. Secondary Ambient Air Quality Standard. That ambient air quality which is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of air pollutants in the ambient air. (5-1-94)

898. Shutdown. The normal and customary time period required to cease operations of air pollution control equipment or an emissions unit beginning with the initiation of procedures to terminate normal operation and continuing until the termination is completed. (5-1-94)

9089. Significant. In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, A rate of ~~regulated air pollutant~~ emissions that would equal or exceed any of the following: (4-5-00)()

a. ~~Air-p~~ Pollutant and emissions ~~and~~ rate: (5-1-94)()

i. Carbon monoxide, one hundred (100) tons per year; (5-1-94)

ii. Nitrogen oxides, forty (40) tons per year; (5-1-94)

iii. Sulfur dioxide, forty (40) tons per year; (5-1-94)

iv. Particulate matter, twenty-five (25) tons per year of particulate matter emissions; fifteen (15) tons per year of PM₁₀ emissions; (5-1-94)()

v. Ozone, forty (40) tons per year of volatile organic compounds ~~as a measure of~~ ozone; (5-1-94)()

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- vi. Lead, six-tenths (0.6) of a ton per year; (5-1-94)
- ~~vii. Asbestos, seven-thousandths (0.007) of a ton per year; (5-1-94)~~
- ~~viii. Beryllium, four-ten-thousandths (0.0004) of a ton per year; (5-1-94)~~
- ~~ix. Mercury, one-tenth (0.1) of a ton per year; (5-1-94)~~
- ~~x. Vinyl chloride, one (1) ton per year; (5-1-94)~~
- ~~xvii. Fluorides, three (3) tons per year; (5-1-94)~~
- ~~xviii. Sulfuric acid mist, seven (7) tons per year; (5-1-94)~~
- ~~xxix. Hydrogen sulfide (H₂S), ten (10) tons per year; (5-1-94)~~
- ~~xxiv. Total reduced sulfur (including H₂S), ten (10) tons per year; (5-1-94)~~
- ~~xxv. Reduced sulfur compounds (including H₂S), ten (10) tons per year; (5-1-94)~~
- ~~xvi. PM-10, fifteen (15) tons per year; (5-1-94)~~
- ~~xxii. Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans), thirty-five ten-millionths (0.0000035) tons per year; (5-1-94)~~
- ~~xxiii. Municipal waste combustor metals (measured as particulate matter), fifteen (15) tons per year; (5-1-94)~~
- ~~xxv. Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride), forty (40) tons per year; (5-1-94)~~
- ~~xxv. Municipal solid waste landfill emissions (measured as nonmethane organic compounds), fifty (50) tons per year; or (4-5-00)(____)~~
- ~~xxvi. Radionuclides, a quantity of emissions, from source categories regulated by 40 CFR Part 61, Subpart H, that have been determined in accordance with 40 CFR Part 61, Appendix D and by Department approved methods, that would cause any member of the public to receive an annual effective dose equivalent of at least one tenth (0.1) mrem per year, if total facility-wide emissions contribute an effective dose equivalent of less than three (3) mrem per year; or any radionuclide emission rate, if total facility-wide radionuclide emissions contribute an effective dose equivalent of greater than or equal to three (3) mrem per year. (5-1-95)~~
- b.** In reference to a net emissions increase or the potential of a source or facility to emit a regulated air pollutant not listed in Subsection 006.9289.a. above and not a toxic air pollutant, any emission rate; or (4-5-00)(____)

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c. For a major facility or major modification which would be constructed within ten (10) kilometers of a Class I area, the emissions rate which would increase the ambient concentration of an emitted regulated air pollutant in the Class I area by one (1) microgram per cubic meter, twenty-four (24) hour average, or more. (4-5-00)

940. Significant Contribution. Any increase in ambient concentrations which would exceed the following: (5-1-94)

a. Sulfur dioxide: (5-1-94)

i. One (1.0) microgram per cubic meter, annual average; (5-1-94)

ii. Five (5) micrograms per cubic meter, twenty-four (24) hour average; (5-1-94)

iii. Twenty-five (25) micrograms per cubic meter, three (3) hour average; (5-1-94)

b. Nitrogen dioxide, one (1.0) microgram per cubic meter, annual average; (5-1-94)

c. Carbon monoxide: (5-1-94)

i. One-half (0.5) milligrams per cubic meter, eight (8) hour average; (5-1-94)

ii. Two (2) milligrams per cubic meter, one (1) hour average; (5-1-94)

d. PM-10: (5-1-94)

i. One (1.0) microgram per cubic meter, annual average; (5-1-94)

ii. Five (5.0) micrograms per cubic meter, twenty-four (24) hour average. (5-1-94)

921. Small Fire. A fire in which the material to be burned is not more than four (4) feet in diameter nor more than three (3) feet high. (5-1-94)

932. Smoke. Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible material. (5-1-94)

943. Smoke Management Plan. A document issued by the Director to implement Sections 606 through 616, Categories of Allowable Burning. (5-1-94)

954. Smoke Management Program. A program whereby meteorological information, fuel conditions, fire behavior, smoke movement and atmospheric dispersal conditions are used as a basis for scheduling the location, amount and timing of open burning operations so as to minimize the impact of such burning on identified smoke sensitive areas. (5-1-94)

965. Source. A stationary source. (5-1-94)

976. Source Operation. The last operation preceding the emission of air pollutants, when this operation: (5-1-94)

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a. Results in the separation of the air pollutants from the process materials or in the conversion of the process materials into air pollutants, as in the case of fuel combustion; and (5-1-94)

b. Is not an air cleaning device. (5-1-94)

987. Stack. Any point in a source arranged to conduct emissions to the ambient air, including a chimney, flue, conduit, or duct but not including flares. (5-1-94)

998. Standard Conditions. Except as specified in Subsection 576.02 for ambient air quality standards, a dry gas temperature of twenty degrees Celsius (20C) sixty-eight degrees Fahrenheit (68F) and a gas pressure of seven hundred sixty (760) millimeters of mercury (14.7 pounds per square inch) absolute. (4-5-00)

~~10099.~~ **Startup.** The normal and customary time period required to bring air pollution control equipment or an emissions unit, including process equipment, from a nonoperational status into normal operation. (5-1-94)

1040. Stationary Source. Any building, structure, facility, emissions unit, or installation which emits or may emit any air pollutant. The fugitive emissions shall not be considered in determining whether a permit is required unless required by federal law. (4-5-00)()

1021. Tier I Source. Any of the following: (5-1-94)

a. Any source located at any major facility as defined in Section 008; (4-5-00)

b. Any source, including an area source, subject to a standard, limitation, or other requirement under 42 U.S.C. Section 7411 or 40 CFR Part 60, and required by EPA to obtain a Part 70 permit; (5-31-05)T

c. Any source, including an area source, subject to a standard or other requirement under 42 U.S.C. Section 7412, 40 CFR Part 61 or 40 CFR Part 63, and required by EPA to obtain a Part 70 permit, except that a source is not required to obtain a permit solely because it is subject to requirements under 42 U.S.C. Section 7412(r); (5-31-05)T

d. Any Phase II source; and (5-1-94)

e. Any source in a source category designated by the Department. (5-1-94)

1032. Total Suspended Particulates. Particulate matter as measured by the method described in 40 CFR 50 Appendix B. (4-5-00)

1043. Toxic Air Pollutant. An air pollutant that has been determined by the Department to be by its nature, toxic to human or animal life or vegetation and listed in Section 585 or 586. (5-1-94)

1054. Toxic Air Pollutant Carcinogenic Increments. Those ambient air quality

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increments based on the probability of developing excess cancers over a seventy (70) year lifetime exposure to one (1) microgram per cubic meter (1 ug/m³) of a given carcinogen and expressed in terms of a screening emission level or an acceptable ambient concentration for a carcinogenic toxic air pollutant. They are listed in Section 586. (5-1-94)

1065. Toxic Air Pollutant Non-carcinogenic Increments. Those ambient air quality increments based on occupational exposure limits for airborne toxic chemicals expressed in terms of a screening emission level or an acceptable ambient concentration for a non-carcinogenic toxic air pollutant. They are listed in Section 585. (5-1-94)

1076. Toxic Substance. Any air pollutant that is determined by the Department to be by its nature, toxic to human or animal life or vegetation. (5-1-94)

1087. Trade Waste. Any solid, liquid or gaseous material resulting from the construction or demolition of any structure, or the operation of any business, trade or industry including, but not limited to, wood product industry waste such as sawdust, bark, peelings, chips, shavings and cull wood. (5-1-94)

1098. TRS (Total Reduced Sulfur). Hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide and any other organic sulfide present. (5-1-94)

1409. Unclassifiable Area. An area which, because of a lack of adequate data, is unable to be classified pursuant to 42 U.S.C. Section 7407(d) as either an attainment or a nonattainment area. (5-1-94)

1140. Uncontrolled Emission. An emission which has not been treated by control equipment. (5-1-94)

1121. Upset. An unplanned disruption in the normal operations of any equipment or emissions unit which may cause excess emissions. (4-5-00)

1132. Wigwam Burner. Wood waste burning devices commonly called teepee burners, silos, truncated cones, and other such burners commonly used by the wood product industry for the disposal by burning of wood wastes. (5-1-94)

1143. Wood Stove Curtailment Advisory. An air pollution alert issued through local authorities and/or the Department to limit wood stove emissions during air pollution episodes. (5-1-94)

007. DEFINITIONS FOR THE PURPOSES OF SECTIONS 200 THROUGH 228 AND 400 THROUGH 461.

01. Adverse Impact on Visibility. Visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairments, and how these factors correlate with: (4-5-00)

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- a.** Times of visitor use of the Federal Class I area; and (4-5-00)
- b.** The frequency and timing of natural conditions that reduce visibility. (4-5-00)
- c.** This term does not include affects on integral vistas. (4-5-00)

02. Agricultural Activities and Services. For the purposes of Subsection 222.02.f., the usual and customary activities of cultivating the soil, producing crops and raising livestock for use and consumption. Agricultural activities and services do not include manufacturing, bulk storage, handling for resale or the formulation of any agricultural chemical listed in Sections 585 or 586. (5-1-94)

03. Innovative Control Technology. Any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice, or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental effects. (5-1-94)

04. Integral Vista. A view perceived from within the mandatory federal Class I area of a specific landmark or panorama located outside the boundary of the mandatory federal Class I area. Integral vistas are identified by the responsible federal land manager in accordance with criteria adopted pursuant to 40 CFR Part 51.304(a). (5-1-94)

05. Mandatory Federal Class I Area. Any area designated under 42 U.S.C. Section 7472(a) as Class I and never to be redesignated. (5-1-94)

06. Net Emissions Increase. Any increase in actual emissions from a particular modification plus any other increases and decreases in actual emissions at the facility that are creditable and contemporaneous with the particular modification, where: (4-5-00)

a. A creditable increase or decrease in actual emissions is contemporaneous with a particular modification if it occurs between the date five (5) years before the commencement of construction or modification on the particular change and the date that the increase from the particular modification occurs. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred and eighty (180) days; (4-5-00)

b. A decrease in actual emissions is creditable only if it satisfies the requirements for emission reduction credits (Section 460) and has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular modification, and is federally enforceable at and after the time that construction of the modification commences. (4-5-00)

c. The increase in toxic air pollutant emissions from an already operating or permitted source is not included in the calculation of the net emissions increase for a proposed new source or modification if: (5-1-95)

- i.** The already operating or permitted source commenced construction or

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modification prior to July 1, 1995; or (5-1-95)

ii. The uncontrolled emission rate from the already operating or permitted source is ten per cent (10%) or less of the applicable screening emissions level listed in Section 585 or 586; or (6-30-95)

iii. The already operating or permitted source is an environmental remediation source subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order. (6-30-95)

07. Pilot Plant. A stationary source located at least one quarter (1/4) mile from any sensitive receptor that functions to test processing, mechanical, or pollution control equipment to determine full-scale feasibility and which does not produce products that are offered for sale except in developmental quantities. (5-1-94)

08. Reasonable Further Progress (RFP). Annual incremental reductions in emissions of the applicable ~~regulated~~ air pollutant as identified in the SIP which are sufficient to provide for attainment of the applicable ambient air quality standard by the required date. (4-5-00)(____)

09. Secondary Emissions. Emissions which would occur as a result of the construction, modification, or operation of a stationary source or facility, but do not come from the stationary source or facility itself. Secondary emissions must be specific, well defined, quantifiable, and affect the same general area as the stationary source, facility, or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the primary stationary source, facility or modification. Secondary emissions do not include any emissions which come directly from a mobile source regulated under 42 U.S.C. Sections 7521 through 7590. (4-5-00)

10. Sensitive Receptor. Any residence, building or location occupied or frequented by persons who, due to age, infirmity or other health based criteria, may be more susceptible to the deleterious effects of a toxic air pollutant than the general population including, but not limited to, elementary and secondary schools, day care centers, playgrounds and parks, hospitals, clinics and nursing homes. (5-1-94)

11. Short Term Source. Any new stationary source or modification to an existing source, with an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. (5-1-94)

12. Toxic Air Pollutant Reasonably Available Control Technology (T-RACT). An emission standard based on the lowest emission of toxic air pollutants that a particular source is capable of meeting by the application of control technology that is reasonably available, as determined by the Department, considering technological and economic feasibility. If control technology is not feasible, the emission standard may be based on the application of a design, equipment, work practice or operational requirement, or combination thereof. (5-1-94)

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13. Visibility Impairment. Any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.(4-5-00)

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.

01. Affected States. All States: (5-1-94)

a. Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)

b. That are within fifty (50) miles of the Tier I source. (5-1-94)

02. Allowance. An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. (5-1-94)

03. Applicable Requirement. All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)

a. Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)

b. Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (4-5-00)

c. Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)

d. Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)

e. Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)

f. Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128 of these rules; (3-23-98)

g. Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)

h. Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)

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i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (5-1-94)

j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)

04. Designated Representative. A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)

05. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)

06. Emergency. For the purposes of Section 332, an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (4-5-00)

07. Final Permit. The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)

08. General Permit. A Tier I permit issued pursuant to Section 335. (3-23-98)

09. Insignificant Activity. Those activities that qualify as insignificant in accordance with Section 317. (3-23-98)

10. Major Facility. A facility (as defined in Section 006) is major if the facility meets any of the following criteria: (3-23-98)

a. For hazardous air pollutants: (3-23-98)

i. The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

ii. The facility emits or has the potential to emit twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or

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production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

b. For non-attainment areas: (3-23-98)

i. The facility is located in a “serious” particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)

ii. The facility is located in a “serious” carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. (5-1-94)

iii. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. (5-1-94)

iv. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is “marginal” or “moderate”, one hundred (100) tpy or more, if the area is “serious”, fifty (50) tpy or more, if the area is “severe”, twenty-five (25) tpy or more, and if the area is “extreme”, ten (10) tpy or more. (3-23-98)

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant ~~listed in Subsections 006.84.a. through 006.84.e.~~ The fugitive emissions shall not be considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: ~~(4-5-00)()~~

i. Designated facilities. (3-23-98)

ii. All other source categories regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. (4-5-00)

11. Part 70. Unless specified otherwise in this chapter, all definitions adopted under 40 CFR Part 70, revised as of July 1, 2004, are hereby incorporated by reference. (4-6-05)

12. Permit Revision. Any permit modification, administrative amendment or reopening. (3-19-99)

13. Phase II Source. A source that is subject to emissions reduction requirements of 42 U.S.C. Section 7651 through 7651o and shall have the meaning given to it pursuant to those sections. (5-1-94)

14. Phase II Unit. A unit that is subject to emissions reduction requirements of 42

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U.S.C. Sections 7651 through 7651o and the term shall have the meaning given to it pursuant to those sections. (5-1-94)

15. Proposed Permit. The version of a permit that the Department proposes to issue and forwards to the EPA for review. (5-1-94)

16. Section 502(b)(10) Changes. Changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements. (3-19-99)

17. Tier I Operating Permit. Any permit covering a Tier I source that is issued, renewed, amended, or revised pursuant to Sections 300 through 386. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

133. STARTUP, SHUTDOWN AND SCHEDULED MAINTENANCE REQUIREMENTS.

The requirements in Subsection 133.01 shall apply in all cases where startup, shutdown, or scheduled maintenance of any equipment or emissions unit is expected to result or results in an excess emissions event. The owner or operator of the facility or emissions unit generating the excess emissions shall demonstrate compliance with all of the requirements of Subsection 133.01, as well as the development and implementation of procedures pursuant to Subsections 133.02 and 133.03 as a prerequisite to any consideration under Subsection 131.02. (4-5-00)

01. General Provisions. The following shall pertain to all startup, shutdown, and scheduled maintenance activities expected to result or resulting in excess emissions: (4-5-00)

a. No scheduled startup, shutdown, or maintenance resulting in excess emissions shall occur during any period in which an Atmospheric Stagnation Advisory and/or a Wood Stove Curtailment Advisory has been declared by the Department within an area designated by the Department as a PM-10 nonattainment area, unless the permittee demonstrates that such is reasonably necessary to facility operations and cannot be reasonably avoided and the Department approves such activity in advance, to the extent advance approval by the Department is feasible. This prohibition on scheduled startup, shutdown or maintenance activities during Advisories does not apply to situations where shutdown is necessitated by urgent situations, such as imminent equipment failure, power curtailment, worker safety concerns or similar situations. (3-20-97)

b. The owner or operator of a source of excess emissions shall notify the Department of any startup, shutdown, or scheduled maintenance event that is expected to cause an excess emissions event. Such notification shall identify the time of the excess emissions, specific location, equipment involved, and type of excess emissions event (i.e. startup, shutdown, or scheduled maintenance). The notification shall be given as soon as reasonably possible, but no later than two (2) hours prior to the start of the excess emissions event unless the owner or operator demonstrates to the Department's satisfaction that a shorter advanced notice was

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necessary. The Department may prohibit or postpone any scheduled startup, shutdown, or maintenance activity upon consideration of the factors listed in Subsection 134.03. (4-5-00)

c. The owner or operator of a source of excess emissions shall report and record the information required pursuant to Sections 135 and 136 for each excess emissions event due to startup, shutdown, or scheduled maintenance. (3-20-97)

d. The owner or operator of a source of excess emissions must make the maximum reasonable effort, including off-shift labor where practicable to accomplish maintenance during periods of nonoperation of any related source operations or equipment. (4-5-00)

02. Excess Emissions Procedures. For all equipment or emissions unit from which excess emissions may occur during startup, shutdown, or scheduled maintenance, the facility owner or operator shall prepare, implement and file with the Department specific procedures which will be used to minimize excess emissions during such events. Specific information for each of the types of excess emissions events (i.e. startup, shutdown and scheduled maintenance) shall be established or documented for each piece of equipment or emissions unit and shall include all of the following (which may be based upon the facility owner or operator's knowledge of the process or emissions where measured data is unavailable): (4-5-00)

a. Identification of the specific equipment or emissions unit and the type of event anticipated. (4-5-00)

b. Identification of the specific ~~regulated air pollutants likely to be emitted~~ emissions in excess of applicable emission standards during the startup, shutdown, or scheduled maintenance period. ~~(4-5-00)~~(____)

c. The estimated amount of excess emissions expected to be released during each event. (3-20-97)

d. The expected duration of each excess emissions event. (3-20-97)

e. An explanation of why the excess emissions are reasonably unavoidable for each of the types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance). (3-20-97)

f. Specification of the frequency at which each of the types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance) are expected to occur. (3-20-97)

g. For scheduled maintenance, the owner or operator shall also document detailed explanations of: (4-5-00)

i. Why the maintenance is needed. (3-20-97)

ii. Why it is impractical to reduce or cease operation of the equipment or emissions unit during the scheduled maintenance period. (4-5-00)

iii. Why the excess emissions are not reasonably avoidable through better scheduling

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of the maintenance or through better operation and maintenance practices. (3-20-97)

iv. Why, where applicable, it is necessary to by-pass, take off line, or operate equipment or emissions unit at reduced efficiency while the maintenance is being performed. (4-5-00)

h. Justification to explain why the piece of equipment or emissions unit cannot be modified or redesigned to eliminate or reduce the excess emissions which occur during startup, shutdown, and scheduled maintenance. (4-5-00)

i. Detailed specification of the procedures to be followed by the owner or operator which will minimize excess emissions at all times during startup, shutdown, and scheduled maintenance. These procedures may include such measures as preheating or otherwise conditioning the emissions unit prior to its use or the application of auxiliary equipment or emissions unit to reduce the excess emissions. (4-5-00)

03. Amendments to Procedures. The owner or operator shall amend, and the Department may require amendments to, the procedures established pursuant to Section 133 from time to time and as deemed reasonably necessary to ensure that the procedures are and remain consistent with good pollution control practices. (4-5-00)

04. Filing of Excess Emissions Procedures. (4-5-00)

a. Unless otherwise required by the Department, the failure to prepare or file procedures pursuant to Subsection 133.02 shall not be a violation of these Rules in and of itself. (4-5-00)

b. To the extent procedures or plans for excess emissions resulting from startup, shutdown, or scheduled maintenance are required to be or are otherwise submitted to the Department with any permit application, such submission, if deemed adequate by the Department, shall fulfill the requirement under this Section to file plans and procedures with the Department. (4-5-00)

134. UPSET, BREAKDOWN AND SAFETY REQUIREMENTS.

The requirements in Subsections 134.01, 134.02, and 134.03 shall apply in all cases where upset or breakdown of equipment or an emissions unit, or the initiation of safety measures, result or may result in an excess emissions event. The owner or operator of the facility or emissions unit generating the excess emissions shall demonstrate compliance with all of the requirements of Subsections 134.01, 134.02 and 134.03 as well as the development and implementation of procedures pursuant to Subsections 134.04 and 134.05 as a prerequisite to any consideration under Subsection 131.02. Where the owner or operator demonstrates that because of the unforeseeable nature of the excess emissions event it is impractical to develop procedures pursuant to Subsection 134.04, the Department shall exercise its enforcement discretion on a case by case basis. (4-5-00)

01. Routine Maintenance and Repairs. For all equipment or emissions units from which excess emissions may occur during upset conditions or breakdowns or implementation of safety measures, the facility owner or operator shall: (4-5-00)

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a. Implement routine preventative maintenance and operating procedures consistent with good pollution control practices for minimizing upsets and breakdowns or events requiring implementation of safety measures, and (3-20-97)

b. Make routine repairs in an expeditious fashion when the owner or operator knew or should have known that an excess emissions event was likely to occur. Off-shift labor and overtime shall be utilized, to the extent practicable, to ensure that such repairs are made expeditiously. (3-20-97)

02. Excess Emissions Minimization and Notification. For all equipment or emissions units from which excess emissions result during upset or breakdown conditions, or for other situations that may necessitate the implementation of safety measures which cause excess emissions, the facility owner or operator shall comply with the following: (4-5-00)

a. The owner or operator shall immediately undertake all appropriate measures to reduce and, to the extent possible, eliminate excess emissions resulting from the event and to minimize the impact of such excess emissions on the ambient air quality and public health. (4-5-00)

b. The owner or operator shall notify the Department of any upset/breakdown/safety event that results in excess emissions. Such notification shall identify the time, specific location, equipment or emissions unit involved, and (to the extent known) the cause(s) of the occurrence. The notification shall be given as soon as reasonably possible, but no later than twenty-four (24) hours after the event, unless the owner or operator demonstrates to the Department's satisfaction that the longer reporting period was necessary. (4-5-00)

c. The owner or operator shall report and record the information required pursuant to Sections 135 and 136 for each excess emissions event caused by an upset, breakdown, or safety measure. (3-20-97)

03. Discretionary Reduction or Cessation Provisions. During any period of excess emissions caused by upset, breakdown, or operation under facility safety measures, the Department may require the owner or operator to immediately reduce or cease operation of the equipment or emissions unit causing the excess emissions until such time as the condition causing the excess emissions has been corrected or brought under control. Such action by the Department shall be taken upon consideration of the following factors and after consultation with the facility owner or operator: (4-5-00)

a. Potential risk to the public or the environment. (3-20-97)

b. Whether ceasing operations could result in physical damage to the equipment, emissions unit or facility, or cause injury to employees. (4-5-00)

c. Whether continued excess emissions were reasonably unavoidable as determined by the Department. (4-5-00)

d. The effect of the increase in pollution resulting from the shutdown and subsequent

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restart of the equipment or emissions unit or facility. (4-5-00)

e. The owner or operator shall not be required to reduce or cease operations at the entire facility if reducing or ceasing operations at a portion of the facility eliminates or adequately reduces the excess emissions. (4-5-00)

04. Excess Emissions Procedures. For equipment or emissions units and process upsets and breakdowns and situations that require implementation of safety measures, which events can reasonably be anticipated to occur periodically but which cannot be reasonably avoided or predicted with certainty, the owner or operator shall prepare, implement, and file with the Department specific procedures which will be used to minimize such events and excess emissions during such events. To the extent possible and reasonably practicable (and based upon knowledge of the process or emissions where measured data is not available), specify the following information for each type of anticipated upset/ breakdown/safety event: (4-5-00)

a. The specific air pollution control equipment or emissions unit and the type of event anticipated. (3-20-97)

b. The specific ~~regulated air pollutants likely to be emitted~~ emissions in excess of applicable emission standards during the event. (4-5-00)()

c. The estimated amount of excess emissions expected to be released during each event. (3-20-97)

d. The expected duration of each excess emissions event. (3-20-97)

e. An explanation of why the excess emissions are reasonably unavoidable. (3-20-97)

f. The frequency of the type of event, based on historic occurrences. (3-20-97)

g. Justification to explain why the piece of control equipment or emissions unit cannot be modified or redesigned to eliminate or reduce the particular type of event. (3-20-97)

h. Detailed specification of the procedures to be followed by the owner or operator which will minimize excess emissions at all times during such events, including without limitation those procedures listed under Subsection 134.05. (3-20-97)

05. Amendments to Procedures. The owner or operator shall amend, and the Department may require amendments to, the procedures established pursuant to Section 134 from time to time and as deemed reasonably necessary to ensure that the procedures are and remain consistent with good pollution control practices. (4-5-00)

06. Filing Of Excess Emissions Procedures. (4-5-00)

a. Failure to follow procedures filed with the Department shall not preclude the Department from making a determination under Subsection 131.02 if the owner or operator demonstrates to the Department's satisfaction that alternate and equivalent procedures were used and were necessitated by the exigency of the circumstances. (4-5-00)

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b. Unless otherwise required by the Department, the failure to prepare or file procedures pursuant to Subsection 134.04 shall not be a violation of these Rules in and of itself. (4-5-00)

c. To the extent procedures or plans for excess emissions resulting from upsets, breakdowns or safety measures are required to be or are otherwise submitted to the Department with any permit application, such submission, if deemed adequate by the Department, shall fulfill the requirement under this Section to file plans and procedures with the Department. (4-5-00)

135. EXCESS EMISSIONS REPORTS.

01. Deadline for Excess Emissions Reports. A written report for each excess emissions event shall be submitted to the Department by the owner or operator no later than fifteen (15) days after the beginning of each such event. (3-20-97)

02. Contents Of Excess Emissions Reports. Each report shall contain the following information: (3-20-97)

a. The time period during which the excess emissions occurred; (3-20-97)

b. Identification of the specific equipment or emissions unit which caused the excess emissions; (3-20-97)

c. An explanation of the cause, or causes, of the excess emissions and whether the excess emissions occurred as a result of startup, shutdown, scheduled maintenance, upset, breakdown or a safety measure; (3-20-97)

d. An estimate of the ~~quantity of each regulated air pollutant emitted~~ emissions in excess of any applicable emission standard (based on knowledge of the process and facility where emissions data is unavailable); ~~(4-5-00)~~(____)

e. A description of the activities carried out to eliminate the excess emissions; and (3-20-97)

f. Certify compliance status with the requirements of Sections 131, 132, 133.01, 134.01 through 134.03, 135, and 136. (4-5-00)

g. If requesting consideration under Subsection 131.02, certify compliance status with Sections 131, 132, 133.01 through 133.03, 134.01 through 134.05, 135, and 136. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

155. CIRCUMVENTION.

No person shall willfully cause or permit the installation or use of any device or use of any means

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~~which, that conceals emissions of pollutants that would otherwise violate the provisions of this chapter without resulting in a reduction in the total amount of regulated air pollutants emitted, conceals an emission of regulated air pollutants which would otherwise violate the provisions of this chapter emissions.~~
(4-5-00)()

(BREAK IN CONTINUITY OF SECTIONS)

213. PRE-PERMIT CONSTRUCTION.

This section describes how owners or operators may commence construction or modification of certain stationary sources before obtaining the required permit to construct. (3-23-98)

01. Pre-Permit Construction Eligibility. Pre-permit construction approval is available for non-major sources and non-major modifications and for new sources or modifications proposed in accordance with Subsection 213.01.d. Pre-permit construction is not available for any new source or modification that: uses emissions netting to stay below major source levels; uses optional offsets pursuant to Section 206; or would have an adverse impact on the air quality related values of any Class I area. Owners or operators may ask the Department for the ability to commence construction or modification of qualifying sources under Section 213 before receiving the required permit to construct. To obtain the Department's pre-permit construction approval, the owner or operator shall satisfy the following requirements: (4-5-00)

a. The owner or operator shall apply for a permit to construct in accordance with Subsections 202.01.a., 202.02, and 202.03 of this chapter. (3-23-98)

b. The owner or operator shall consult with Department representatives prior to submitting a pre-permit construction approval application. (3-23-98)

c. The owner or operator shall submit a pre-permit construction approval application which must contain, but not be limited to: a letter requesting the ability to construct before obtaining the required permit to construct, a copy of the notice referenced in Subsection 213.02; proof of eligibility; process description(s); equipment list(s); proposed emission limits and modeled ambient concentrations for all regulated air pollutants and toxic air pollutants, such that they demonstrate compliance with all applicable air quality rules and regulations. The models shall be conducted in accordance with Subsection 202.02 and with written Department approved protocol and submitted with sufficient detail so that modeling can be duplicated by the Department. (4-5-00)()

d. Owners or operators seeking limitations on a source's potential to emit such that permitted emissions will be either below major source levels or below a significant increase must describe in detail in the pre-permit construction application the proposed restrictions and certify in accordance with Section 123 that they will comply with the restrictions, including any applicable monitoring and reporting requirements. (3-23-98)

02. Permit to Construct Procedures for Pre-Permit Construction. (3-23-98)

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a. Within ten (10) days after the submittal of the pre-permit construction approval application, the owner or operator shall hold an informational meeting in at least one (1) location in the region in which the stationary source or facility is to be located. The informational meeting shall be made known by notice published at least ten (10) days before the meeting in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. A copy of such notice shall be included in the application. (3-23-98)

b. Within fifteen (15) days after the receipt of the pre-permit construction approval application, the Department shall notify the owner or operator in writing of pre-permit construction approval or denial. The Department may deny the pre-permit construction approval application for any reason it deems valid. (3-23-98)

c. Upon receipt of the pre-permit construction approval letter issued by the Department, the owner or operator may begin construction at their own risk as identified in Subsection 213.02.d. Upon issuance of the pre-permit construction approval letter, any and all potential to emit limitations addressed in the pre-permit construction application pursuant to Subsection 213.01.d. shall become enforceable. The owner or operator shall not operate those emissions units subject to permit to construct requirements in accordance with Section 200 unless and until issued a permit pursuant to Section 209. (5-3-03)

d. If the pre-permit construction approval application is determined incomplete or the permit to construct is denied, the Department shall issue an incompleteness or denial letter pursuant to Section 209. If the Department denies the permit to construct, then the owner or operator shall have violated Section 201 on the date it commenced construction as defined in Section 006. The owner or operator shall not contest the final permit to construct decision based on the fact that they have already begun construction. (3-23-98)

(BREAK IN CONTINUITY OF SECTIONS)

220. GENERAL EXEMPTION CRITERIA FOR PERMIT TO CONSTRUCT EXEMPTIONS.

01. General Exemption Criteria. Sections 220 through 223 may be used by owners or operators to exempt certain sources from the requirement to obtain a permit to construct. Nothing in these sections shall preclude an owner or operator from choosing to obtain a permit to construct. For purposes of Sections 220 through 223, the term source means the equipment or activity being exempted. For purposes of Sections 220 through 223, fugitive emissions shall not be considered in determining whether a source meets the applicable exemption criteria unless required by federal law. No permit to construct is required for a source that satisfies all of the following criteria, in addition to the criteria set forth at Sections 221, 222, or 223: ~~(4-5-00)~~(____)

a. The maximum capacity of a source to emit an air pollutant under its physical and operational design without consideration of limitations on emission such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed would not: (4-5-00)

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- i. Equal or exceed one hundred (100) tons per year of any regulated air pollutant. (4-5-00)
- ii. Cause an increase in the emissions of a major facility that equals or exceeds the significant emissions rates set out in the definition of significant at Section 006. (4-5-00)
- b. Combination. The source is not part of a proposed new major facility or part of a proposed major modification. (4-5-00)

02. Record Retention. Unless the source is subject to and the owner or operator complies with Section 385, the owner or operator of the source, except for those sources listed in Subsections 222.02.a. through 222.02.g., shall maintain documentation on site which shall identify the exemption determined to apply to the source and verify that the source qualifies for the identified exemption. The records and documentation shall be kept for a period of time not less than five (5) years from the date the exemption determination has been made or for the life of the source for which the exemption has been determined to apply, which ever is greater, or until such time as a permit to construct or an operating permit is issued which covers the operation of the source. The owner or operator shall submit the documentation to the Department upon request. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

440. REQUIREMENTS FOR ALTERNATIVE EMISSION LIMITS (BUBBLES).

The owner or operator of any facility may apply to the Department for a Tier I or Tier II operating permit (or a revision thereto) to authorize an alternative emission limit for any stationary source or emissions unit within the facility. The Department may issue or revise a Tier II operating permit or issue a significant modification to a Tier I operating permit which authorizes an alternative emission limit provided that all of the following are met: (4-5-00)

01. Actual Emissions. There is no increase in actual emissions of the applicable ~~regulated~~ air pollutant at the facility. (~~4-5-00~~)()

02. Emission Reductions. All emission reductions satisfy the requirements for emission reduction credits (Section 460). (5-1-94)

03. Trade Requirements. All trades involve the same ~~regulated~~ air pollutant and demonstrate ambient equivalence as specified in Subsection 441.02. (~~4-5-00~~)()

04. Applicable Requirement Prohibition. No applicable Section of 40 CFR Part 60, 40 CFR Part 61, or 40 CFR Part 63, best available control technology requirement, lowest achievable emission rate requirement, or visual emission standard is exceeded. (5-1-94)

05. Actual HAP/TAP Emissions. The actual emissions of any hazardous air pollutant or any toxic air pollutant are not increased. (5-1-94)

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06. Fugitive Dust Trades. Where the trade involves fugitive dust, the owner or operator shall undertake an adequate post-approval monitoring program to evaluate the ambient results of the controls. If the monitoring data indicate that the air quality effects are not equivalent, then: (5-1-94)

- a. Further reductions must be proposed by the owner or operator; and/or (5-1-94)
- b. The applicable emission standards in the operating permit will be adjusted by the Department; (5-1-94)

07. Compliance Schedule Extension. Any compliance schedule extension for a facility in a nonattainment area is consistent with reasonable further progress. (5-1-94)

08. EPA Approval. Approval of the U.S. Environmental Protection Agency, and where necessary the appropriate court, has been obtained for any individual stationary source or facility which is the subject of a federal enforcement action or outstanding enforcement order. (5-1-94)

441. DEMONSTRATION OF AMBIENT EQUIVALENCE.

The demonstration of ambient equivalence shall: (5-1-94)

01. VOC Trades. For trades involving volatile organic compounds, show that total emissions are not increased for the air basin in which the stationary source or facility is located. (5-1-94)

02. Other Trades. For trades involving any other ~~regulated~~ air pollutant, show through appropriate dispersion modeling that the trade will not cause a significant contribution at any modeled receptor. (4-5-00)()

442. -- 459. (RESERVED).

460. REQUIREMENTS FOR EMISSION REDUCTION CREDIT.

In order to be credited in a permit to construct, Tier I operating permit or Tier II operating permit any emission reduction must satisfy the following: (5-1-94)

01. Allowable Emissions. The proposed level of allowable emissions must be less than the actual emissions of the stationary source(s) or emission unit(s) providing the emission reduction credit. No emission reduction(s) can be credited for actual emissions which exceed the allowable emissions of the stationary source(s) or emission unit(s). (5-1-94)

02. Timing of Emission Reduction. In an attainment or unclassifiable area any emission reduction which occurs prior to the minor source baseline date must have been banked with the Department prior to the minor source baseline date in order to be credited; in a nonattainment area the emission reduction must occur after the base year of any control strategy for the particular ~~regulated~~ air pollutant. (4-5-00)()

03. Emission Rate Calculation. The emission rate before and after the reduction must

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be calculated using the same method and averaging time and the characteristics necessary to evaluate any future use of the emission reduction credit must be described. (5-1-94)

04. Permit Issuance. A permit to construct, Tier I operating permit or Tier II operating permit shall be issued which establishes a new emission standard for the facility, or restricts the operating rate, hours of operation, or the type or amount of material combusted, stored or processed for the stationary source(s) or emission unit(s) providing the emission reductions. (4-5-00)

05. Imposed Reductions. Emission reductions imposed by local, state or federal regulations or permits shall not be allowed for emission reduction credits. (5-1-94)

06. Mobile Sources. The proposed level of allowable emissions must be less than the actual emissions of the mobile sources or stationary sources providing the emission reduction credit. Mobile source emission reduction credits shall be made state or federally enforceable by SIP revision. The form of the SIP revision may be a state or local regulation, operating permit condition, consent or enforcement order, or any mechanism available to the state that is enforceable. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

511. APPLICABILITY.

The provisions of Sections 510 through 516 shall apply to existing, new, and modified stationary sources and facilities. The provisions of Sections 510 through 516 do not apply to stack heights in existence, or dispersion techniques implemented, on or before December 31, 1970, except where regulated or toxic air pollutant(s) are being emitted from such stacks or using such dispersion techniques by sources which were constructed, or reconstructed, or for which major modifications were carried out, after December 31, 1970. ~~(5-3-03)~~(____)

512. DEFINITIONS.

For the purpose of Sections 500 through 516: (5-1-94)

01. Dispersion Technique. Any technique which attempts to affect the concentration of a regulated or toxic air pollutant in the ambient air by: ~~(4-5-00)~~(____)

a. Using that portion of a stack which exceeds good engineering practice stack height; (5-1-94)

b. Varying the rate of emission of a regulated or toxic air pollutant according to atmospheric conditions or ambient concentrations of that ~~regulated air~~ pollutant; or ~~(4-5-00)~~(____)

c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one (1) stack, or other selective handling of exhaust gas streams so as to

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increase the exhaust gas plume rise. This does not include the reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream; smoke management in agricultural or silvicultural prescribed burning programs; episodic restrictions on residential woodburning and open burning; techniques which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed five thousand (5,000) tons per year; or the merging of exhaust gas streams where: (5-1-94)

i. The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams; (5-1-94)

ii. After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a regulated or toxic air pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the regulated or toxic air pollutant affected by such change in operation; or ~~(4-5-00)~~()

iii. Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, the reviewing agency shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the reviewing agency shall deny credit for the effects of such merging in calculating the allowable emissions for the source. (5-1-94)

02. Excessive Concentration. For the purpose of determining good engineering practice stack height in a fluid modeling evaluation or field study as provided for in Subsection 512.03.c. "Excessive Concentration" means: (5-1-94)

a. For sources seeking credit for stack height exceeding that established under Subsection 512.03.b., a maximum ground level concentration due to emissions from a stack due in whole or in part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of such effects, and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the prevention of significant deterioration program, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under Subsection 512.02.a., shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Department, an alternative emission rate shall be established in consultation with the source owner or operator. (5-1-94)

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b. For sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under Subsection 512.03.b., either: (5-1-94)

i. A maximum ground-level concentration due in whole or in part to downwash, wakes or eddy effects as provided in Subsection 512.02.a., except that the emission rate specified by any applicable SIP or, in the absence of such a limit, the actual emission rate shall be used; or (5-1-94)

ii. The actual presence of a local nuisance caused by the existing stack as determined by the authority administering the Department. (5-1-94)

c. For sources seeking credit after January 12, 1979, for a stack height determined under Subsection 512.03.b., where the Department requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in Subsection 512.03.b., a maximum ground-level concentration due in whole or in part to downwash, wakes or eddy effects that is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects. (5-1-94)

03. Good Engineering Practice (GEP) Stack Height. The greater of: (5-1-94)

a. Sixty-five (65) meters, measured from the ground-level elevation at the base of the stack; (5-1-94)

b. For stacks in existence on January 12, 1979, and for which the owner or operator has obtained all applicable preconstruction permits or approvals required,

$$H = 2.5S$$

provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation. For all other stacks provided that the Department may require the use of a field study or fluid model to verify GEP stack height for the source,

$$H = S + 1.5L$$

where:

(5-1-94)

i. H = good engineering practice stack height measured from the ground-level elevation at the base of the stack. (5-1-94)

ii. S = height of nearby structure(s) measured from the ground-level elevation at the base of the stack. (5-1-94)

iii. L = lesser dimension, height or projected width, of nearby structure(s). (5-1-94)

c. The height demonstrated by a fluid model or a field study approved by the Department which ensures that the emissions from a stack do not result in excessive concentrations of any regulated or toxic air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, structures, or terrain features. (4-5-00)(____)

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04. Nearby Structures or Terrain Features. “Nearby” as applied to a specific structure or terrain feature under the definition of “good engineering practice stack height”; and (5-1-94)

a. For purposes of applying the formulae provided under Subsection 512.03.b., means that distance up to five (5) times the lesser of the height or the width dimension of a structure, but not greater than one-half (1/2) mile (0.8 km); and (5-1-94)

b. For conducting demonstrations under Subsection 512.03.c., means not greater than one-half (0.5) mile (0.8 km), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten (10) times the maximum height of the feature, not to exceed two (2) miles if such feature achieves a height one-half (0.5) mile (0.8 km) from the stack that is at least forty percent (40%) of the GEP stack height determined by the formulae provided in Subsection 512.03.b., or twenty-six (26) meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack. (4-5-00)

05. Stack in Existence. The owner or operator had: (5-1-94)

a. Begun, or caused to begin, a continuous program of physical on-site construction of the stack; or (5-1-94)

b. Entered into binding agreements or contractual obligations which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time. (5-1-94)

513. REQUIREMENTS.

The required degree of emission control of any regulated or toxic air pollutant shall not be affected by the amount of any stack height that exceeds good engineering practice (GEP) or by any other dispersion technique. (~~4-5-00~~)()

(BREAK IN CONTINUITY OF SECTIONS)

560. NOTIFICATION TO SOURCES.

The Department will assure that all significant sources of ~~regulated~~ the applicable air pollutant(s) are notified of the emergency stage by telephone or other appropriate means. (~~4-5-00~~)()

561. GENERAL RULES.

All persons in the designated stricken area shall be governed by the following rules for each emergency episode stage. The Director may waive one (1) or more of the required measures at each episode stage if, on the basis of information available to him, he judges that a measure is an inappropriate response to the specific episode conditions which then exist. (5-1-94)

01. Stage 1 - Air Pollution Forecast and Caution. There shall be no new ignition of

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open burning of any kind. The Director may require, if practicable, or in an emergency situation, the cessation of any open burning. (3-15-02)

02. Stage 2 - Alert. (5-1-94)

a. There shall be no open burning of any kind. (5-1-94)

b. The use of burners and incinerators for the disposal of any form of solid waste shall be prohibited. (3-15-02)

c. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 pm (noon) and 4:00 p.m. (5-1-94)

d. Commercial, industrial and institutional facilities utilizing coal or residual fuel oil are required to switch to natural gas or distillate oil if available. (5-1-94)

03. Stage 3 - Warning. (5-1-94)

a. There shall be no open burning of any kind. (5-1-94)

b. The use of burners and incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited. (3-15-02)

c. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 pm (noon) and 4:00 p.m. (5-1-94)

d. Commercial, industrial and institutional facilities utilizing coal or residual fuel are required to either: (5-1-94)

i. Switch completely to natural gas or distillate oil; or (5-1-94)

ii. If these low sulfur fuels are not available, curtail the use of existing fuels to the extent possible without causing injury to persons or damage to equipment. (5-1-94)

04. Stage 4 - Emergency. This will be called only with specific concurrence of Governor. (5-1-94)

a. There shall be no open burning of any kind. (5-1-94)

b. The use of burners and incinerators for the disposal of any form of solid or liquid waste shall be prohibited. (3-15-02)

c. All places of employment described below shall immediately cease operations: (5-1-94)

i. All mining and quarrying operations; (5-1-94)

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- ii. All construction work except that which must proceed to avoid injury to persons;
(5-1-94)
 - iii. All manufacturing establishments except those required to have in force an air pollution emergency plan;
(5-1-94)
 - iv. All wholesale trade establishments, i.e. places of business primarily engaged in selling merchandise to retailers or industrial, commercial, institutional or professional users, or to other wholesalers, or acting as agents in buying merchandise for or selling merchandise to such persons or companies except those engaged in the distribution of drugs, surgical supplies and food;
(5-1-94)
 - v. All offices of local, county and State government including authorities, joint meetings, and other public bodies excepting such agencies which are determined by the chief administrative officer of local, county, or State government authorities, joint meetings and other public bodies to be vital for public safety and welfare and the enforcement of the provisions of this order;
(5-1-94)
 - vi. All retail trade establishments except pharmacies, surgical supply distributors, and stores primarily engaged in the sale of food;
(5-1-94)
 - vii. Banks, credit agencies other than banks, securities and commodities brokers, dealers, exchanges and services; offices of insurance carriers, agents and brokers, real estate offices;
(5-1-94)
 - viii. Wholesale and retail laundries, laundry services and cleaning and dyeing establishments; photographic studios; beauty shops, barber shops, shoe repair shops;
(5-1-94)
 - ix. Advertising offices, consumer credit reporting, adjustment and collection agencies; duplicating, addressing, blueprinting; photocopying, mailing, mailing list and stenographic services; equipment rental services, commercial testing laboratories;
(5-1-94)
 - x. Automobile repair, automobile services, garages except those located adjacent to state or interstate highways;
(5-1-94)
 - xi. Establishments rendering amusement and recreational services including motion picture theaters;
(5-1-94)
 - xii. Elementary and secondary schools, colleges, universities, professional schools, junior colleges, vocational schools, and public and private libraries.
(5-1-94)
- d.** All commercial and manufacturing establishments not included in this order will institute such actions as will result in maximum reduction of ~~regulated~~ the applicable air pollutant(s) from their operation by ceasing, curtailing, or postponing operations which emit ~~regulated~~ the applicable air pollutants to the extent possible without causing injury to persons or damage to equipment. These actions include limiting boiler lancing or soot blowing operations for fuel burning equipment to between the hours of 12:00 pm (noon) and 4:00 p.m.

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(4-5-00)()

e. When the emergency episode is declared for carbon monoxide, the use of motor vehicles is prohibited except in emergencies or with the approval of local or state police or the Department. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

575. AIR QUALITY STANDARDS AND AREA CLASSIFICATION.

Ambient Air Quality Standards. The purpose of Sections 575 through 587 is to establish air quality standards for the state of Idaho which define acceptable ambient concentrations of ~~regulated air pollutants~~ consistent with established air quality criteria. (4-5-00)()

(BREAK IN CONTINUITY OF SECTIONS)

581. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) INCREMENTS.

The purpose of Section 581 is to establish the allowable degree of deterioration for the areas within the State which have air quality better than the ambient standards. (5-1-94)

01. **Class I, II and III Areas.** In any area designated as Class I, II, or III, increases in any ambient concentration over the baseline concentration shall be limited to the following:

| CLASS AREAS | Maximum Allowable Increase (Micrograms per cubic meter) |
|---------------------------------------|--|
| CLASS I AREAS | |
| PM-10: | |
| Annual arithmetic mean | 4 |
| Maximum twenty-four (24) hour average | 8 |
| Sulfur dioxide: | |
| Annual arithmetic mean | 2 |
| Maximum twenty-four (24) hour average | 5 |
| Maximum three (3) hour average | 25 |
| Nitrogen dioxide: | |
| Annual arithmetic mean | 2.5 |
| CLASS II AREAS | |
| PM-10: | |
| Annual arithmetic mean | 17 |
| Maximum twenty-four (24) hour average | 30 |

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| CLASS AREAS | Maximum Allowable Increase (Micrograms per cubic meter) |
|---------------------------------------|--|
| Sulfur dioxide: | |
| Annual arithmetic mean | 20 |
| Maximum twenty-four (24) hour average | 91 |
| Maximum three (3) hour average | 512 |
| Nitrogen dioxide: | |
| Annual arithmetic mean | 25 |
| CLASS III AREAS | |
| PM-10: | |
| Annual arithmetic mean | 34 |
| Maximum twenty-four (24) hour average | 60 |
| Sulfur dioxide: | |
| Annual arithmetic mean | 40 |
| Maximum twenty-four (24) hour average | 182 |
| Maximum three (3) hour average | 700 |
| Nitrogen dioxide: | |
| Annual arithmetic mean | 50 |

(5-3-03)

02. Exceedances. For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one (1) such period per year at any one (1) location. (5-1-94)

03. Exclusions. The following concentrations shall be excluded in determining compliance with the maximum allowable increases: (5-1-94)

a. Concentrations attributable to the increase in emissions from facilities which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, over the emissions from such facilities before the effective date of such order or plan; this shall not apply more than five (5) years after the effective date of such order or plan; (5-1-94)

b. Concentrations of PM-10 attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified facilities; (7-1-97)

c. The increase in concentrations attributable to new facilities outside the United States over the concentrations attributable to existing facilities which are included in the baseline concentration; and (5-1-94)

d. Concentrations attributable to the temporary increase in emissions of sulfur

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dioxide, nitrogen dioxide, or particulate matter from facilities which are affected by a revision to the SIP approved by the U.S. Environmental Protection Agency; this exclusion shall not exceed two (2) years unless a longer time is approved by the U.S. Environmental Protection Agency, is not renewable, and applies only to revisions which: (5-1-94)

i. Would not affect ~~regulated air~~ the applicable pollutant concentrations in a Class I area or an area where an applicable increment is known to be violated and would not cause or contribute to a violation of an ambient air quality standard; and (4-5-00)(____)

ii. Require limitations to be in effect at the end of the approved time period which would ensure that the emissions from facilities affected by the revision would not exceed those concentrations occurring before the revision was approved. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

679. AVERAGING PERIOD.

For purposes of Sections 675 through 680, emissions shall be averaged according to the following, whichever is the lesser period of time: (5-1-94)

01. One Cycle. One (1) complete cycle of operation; or (5-1-94)

02. One Hour. One (1) hour of operation representing worst-case conditions for the emission of ~~regulated air pollutants~~ particulate matter. (4-5-00)(____)

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0504

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The temporary rule is effective January 4, 2006. This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that the Board has adopted a pending rule and temporary rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 7, 2005, Vol. 05-9, pages 319 through 322. After consideration of public comments, the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

In accordance with Section 67-5226, Idaho Code, the full text of the temporary rule is being published in this Bulletin following this notice. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 7, 2005 Idaho Administrative Bulletin, Vol. 05-9, pages 319 through 322.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is necessary to meet deadlines in a federal program.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Chris Ramsdell at christopher.ramsdell@deq.idaho.gov, (208)373-0237.

DATED this 17th day of November, 2005.

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DEPARTMENT OF ENVIRONMENTAL QUALITY
Rules for the Control of Air Pollution in Idaho

Docket No. 58-0101-0504
PENDING RULE

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

October 11, 2005, 4 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) proposes to revise sections of the “Rules for the Control of Air Pollution in Idaho” (Rules) that pertain to emission registration requirements for Title V sources of air pollution as outlined in IDAPA 58.01.01.389.04. Changing the Registration Information rule eliminates a redundancy in Title V facility reporting of emissions. Currently, the regulated community completes separate annual emissions registration and emissions inventory projects. The data needed for each project is similar. This rule change will ensure that the one data type required is sufficient to cover both projects in one request. Therefore, the rule change will consolidate emissions registration and inventories and may maximize industry and DEQ efficiency for the two required projects.

The Registration Information rule change will allow emissions data submissions to be completed using a Web-based collection program. Use of this method creates a personnel-hour savings for most facilities and DEQ staff, while at the same time eliminating confusion between the two emissions reporting projects, reducing necessary data quality-assurance checks through computer automation, and providing more accurate fee calculations. The change will allow DEQ to meet proposed EPA data transfer deadlines.

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The text of the rule has been developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Both major and minor sources of air pollution may be interested in participating in this rulemaking. Special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may also wish to submit comments on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined>. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending and temporary rule. If adopted by the Board, the temporary rule would become effective on January 4, 2006. The pending rule is expected to be final upon adjournment of the 2006 legislative session if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, June 1, 2005, Vol. 05-6, page 43.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rulemaking, contact Christopher Ramsdell at (208) 373-0237, christopher.ramsdell@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before October 11, 2005.

DATED this 3rd day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

389. REGISTRATION INFORMATION.

Any person owning or operating a facility or source during the previous calendar year or any

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portion of the previous calendar year for which Sections 387 through 397 apply shall, by April 1, 2003 or within fifteen (15) days following the adjournment of the 2003 regular session of the legislature, whichever is later, and each April 1 thereafter register with the Department and submit the following information as specified in Subsections 389.01 through 389.05 (submittal forms are located at www.deq.idaho.gov): ~~(4-2-03)(1-4-06)T~~

01. Facility Information. The name, address, telephone number and location of the facility; (5-1-94)

02. Owner/Operator Information. The name, address and telephone numbers of the owners and operators; (5-1-94)

03. Facility Emission Units. The number and type of emission units present at the facility or the Tier I permit number for the facility; and (4-2-03)

04. Pollutant Registration. The emissions from the previous calendar year for oxides of sulfur (SO_x), oxides of nitrogen (NO_x), particulate matter (PM), and volatile organic compounds (VOC) ~~based on one (1) or more of the following methods chosen by the registrant:~~ ~~(4-2-03)~~

~~a. Actual annual emissions; or (4-2-03)~~

~~b. An estimate of the actual annual emissions calculated using the unit's methods to include, but not limited to, continuous emissions monitoring (CEMS), certified source tests, material balances (mass-balance), state/industry emission factors, or AP-42 emission factors applied to throughput, actual operating hours, production rates, in-place control equipment, and or the types of materials processed, stored, or combusted, during the preceding calendar year; or (4-2-03)(1-4-06)T~~

~~c. Allowable emissions based on permit limitations. (3-19-99)~~

05. Radionuclide Registration. The amount of radionuclides from facilities regulated under 40 CFR Part 61, Subpart H, for which the registrant wishes to be registered to emit from each source in curies per year except that no amount in excess of or less than an existing permit, consent order, or judicial order will be allowed. (5-1-94)

06. Regulated Air Pollutant Registration Fee. The registration fee set out in Subsection 389.06 shall be reviewed at least every two (2) years to assure the funds meet the presumptive minimum as defined by EPA. The annual registration fee set forth in Section 389 shall be paid as provided in Section 393. (4-2-03)

a. The Tier I annual fee schedule shall be as follows: (3-30-01)

i. A fixed annual fee for Tier I major sources emitting regulated air pollutants listed in Subsection 389.04 as follows: (4-2-03)

(1) Seven thousand (7,000) tons per year and above shall pay fifty-five thousand dollars (\$55,000); (4-2-03)

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(2) Four thousand five hundred (4,500) tons per year and above shall pay thirty-three thousand dollars (\$33,000); (4-2-03)

(3) Three thousand (3,000) tons per year and above shall pay twenty-two thousand dollars (\$22,000); (4-2-03)

(4) One thousand (1,000) tons per year and above shall pay seventeen thousand five hundred dollars (\$17,500); (4-2-03)

(5) Five hundred (500) tons per year and above shall pay eight thousand five hundred dollars (\$8,500); (4-2-03)

(6) Two hundred (200) tons per year and above shall pay five thousand five hundred dollars (\$5,500); and (4-2-03)

(7) Less than two hundred (200) tons per year shall pay two thousand seven hundred fifty dollars (\$2,750); plus (4-2-03)

ii. A per ton annual fee of thirty-three dollars (\$33) per ton for all regulated air pollutant emissions listed in Subsection 389.04 as follows: (4-2-03)

(1) Greater than or equal to four thousand five hundred (4,500) tons per year not to exceed one hundred ten thousand dollars (\$110,000); (4-2-03)

(2) Greater than or equal to three thousand (3,000) but less than four thousand five hundred (4,500) tons per year not to exceed fifty-five thousand dollars (\$55,000); (4-2-03)

(3) Greater than or equal to one thousand (1,000) but less than three thousand (3,000) tons per year not to exceed twenty-seven thousand dollars (\$27,000); (4-2-03)

(4) Greater than or equal to five hundred (500) but less than one thousand (1,000) tons per year not to exceed nineteen thousand two hundred fifty dollars (\$19,250); (4-2-03)

(5) Greater than or equal to two hundred (200) but less than five hundred (500) tons per year not to exceed eight thousand two hundred fifty dollars (\$8,250); and (4-2-03)

(6) Less than two hundred (200) tons per year not to exceed two thousand seven hundred fifty dollars (\$2,750). (4-2-03)

b. The fee-for-service shall be as follows: Sources requesting Section 300 permit modifications or renewals, or receiving program maintenance services, including but not limited to site visits, response to public inquiries, modeling, responses to site questions and opacity readings by the Department shall be assessed a fee for actual time expended and expenses incurred by the Department in the previous calendar year in an amount not to exceed seven thousand five hundred dollars (\$7,500) per facility per year as a fee-for-service. Service shall be conducted by qualified Department staff or contractors. (4-2-03)

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07. Shortfall. In the event that, on June 30, 2003 or June 30, 2004 the amount of fees assessed by the Department under Subsection 389.06.a. is less than one million one hundred thousand dollars (\$1,100,000), the difference shall be paid by the registrants to which Section 388 applies. (4-2-03)

a. The shortfall will be calculated as follows: (4-2-03)

i. Dividing the amount of the shortfall by the total tons of pollutants registered for the previous calendar year by all registrants; and (4-2-03)

ii. Calculating a per-ton fee which, when multiplied by the total tons registered generates a number in the amount of the shortfall. (4-2-03)

b. Each registrant shall then be assessed by September 1 of the year and shall pay by October 1 of the year a supplemental fee to make up any shortfall of the one million one hundred thousand dollars (\$1,100,000) in the amount of the tons of emissions registered for that facility in the previous calendar year multiplied by the per-ton fee calculated in Subsection 389.07.a. (4-2-03)

c. Subsection 389.07 of this rule shall apply only in state fiscal years 2004 and 2005. (4-2-03)

08. Radionuclide Registration Fee. (4-2-03)

a. A registration fee of five dollars per curie per year (\$5/curie/year) shall be paid by facilities regulated under 40 CFR Part 61, Subpart H. (4-2-03)

b. The registration fee may be paid as provided in Section 397. (4-2-03)

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0505

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act.

DESCRIPTIVE SUMMARY: This rule updates federal regulations incorporated by reference. EPA filed a notice of reconsideration on October 21, 2005 regarding the final rule for Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units, 70 Fed. Reg. 28,606 (May 18, 2005) (Clean Air Mercury Rule (CAMR)). Consideration by the Board of the CAMR has been postponed pending final decision on reconsideration of the rule by EPA. Section 107 has been revised with the addition of Subsection 107.03.q., which expressly excludes the CAMR from incorporation by reference into IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho". The CAMR will be addressed under a new docket pursuant to a public negotiated rulemaking. The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the August 3, 2005 Idaho Administrative Bulletin, Vol. 05-8, pages 340 through 349.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

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PENDING RULE

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at martin.bauer@deq.idaho.gov, (208) 373-0440.

DATED this 17th day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

September 7, 2005, 4 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: This rulemaking is necessary to ensure that the Rules for the Control of Air Pollution in Idaho will remain consistent with federal regulations. This proposed rule updates citations to federal regulations incorporated by reference to include those revised as of July 1, 2005. In addition, this proposed rule makes a correction in Subsection 209.05.a.iv. The reference to Section 269 should be Section 369.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and

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deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2006 session of the Idaho Legislature if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440 or martin.bauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 7, 2005.

DATED this 1st day of July, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.

- 01. Affected States.** All States: (5-1-94)
 - a.** Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)
 - b.** That are within fifty (50) miles of the Tier I source. (5-1-94)
- 02. Allowance.** An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. (5-1-94)
- 03. Applicable Requirement.** All of the following if approved or promulgated by

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EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)

a. Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)

b. Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (4-5-00)

c. Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)

d. Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)

e. Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)

f. Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128 of these rules; (3-23-98)

g. Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)

h. Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)

i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (5-1-94)

j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)

04. Designated Representative. A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)

05. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)

06. Emergency. For the purposes of Section 332, an emergency is any situation

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arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (4-5-00)

07. Final Permit. The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)

08. General Permit. A Tier I permit issued pursuant to Section 335. (3-23-98)

09. Insignificant Activity. Those activities that qualify as insignificant in accordance with Section 317. (3-23-98)

10. Major Facility. A facility (as defined in Section 006) is major if the facility meets any of the following criteria: (3-23-98)

a. For hazardous air pollutants: (3-23-98)

i. The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

ii. The facility emits or has the potential to emit twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

b. For non-attainment areas: (3-23-98)

i. The facility is located in a “serious” particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)

ii. The facility is located in a “serious” carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. (5-1-94)

iii. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. (5-1-94)

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iv. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is “marginal” or “moderate”, one hundred (100) tpy or more, if the area is “serious”, fifty (50) tpy or more, if the area is “severe”, twenty-five (25) tpy or more, and if the area is “extreme”, ten (10) tpy or more. (3-23-98)

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant listed in Subsections 006.84.a. through 006.84.e. The fugitive emissions shall not be considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: (4-5-00)

i. Designated facilities. (3-23-98)

ii. All other source categories regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. (4-5-00)

11. Part 70. Unless specified otherwise in this chapter, all definitions adopted under 40 CFR Part 70, revised as of July 1, 2004~~5~~, are hereby incorporated by reference. ~~(4-6-05)~~(____)

12. Permit Revision. Any permit modification, administrative amendment or reopening. (3-19-99)

13. Phase II Source. A source that is subject to emissions reduction requirements of 42 U.S.C. Section 7651 through 7651o and shall have the meaning given to it pursuant to those sections. (5-1-94)

14. Phase II Unit. A unit that is subject to emissions reduction requirements of 42 U.S.C. Sections 7651 through 7651o and the term shall have the meaning given to it pursuant to those sections. (5-1-94)

15. Proposed Permit. The version of a permit that the Department proposes to issue and forwards to the EPA for review. (5-1-94)

16. Section 502(b)(10) Changes. Changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements. (3-19-99)

17. Tier I Operating Permit. Any permit covering a Tier I source that is issued, renewed, amended, or revised pursuant to Sections 300 through 386. (3-19-99)

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(BREAK IN CONTINUITY OF SECTIONS)

107. INCORPORATIONS BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term “documents” includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association.

(5-1-94)

02. Availability Of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations:

(5-1-94)

a. All federal publications: U.S. Government Printing Office, <http://www.gpoaccess.gov/index.html>; and

(3-20-04)

b. All documents herein incorporated by reference:

(7-1-97)

i. Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-0502.

(7-1-97)

ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316.

(7-1-97)

03. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules:

(5-1-94)

a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Appendix W to Part 51--Guideline on Air Quality Models. 40 CFR Parts 51 and 52 revised as of July 1, 2004~~5~~.

(~~4-6-05~~)()

b. Implementation Plan for the Control of Air Pollution in the State of Idaho (SIP), Department of Environmental Quality, November 1996.

(3-19-99)

c. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 2004~~5~~.

(~~4-6-05~~)()

d. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Protection of Visibility, Identification of Integral Vistas, Subsection a, 40 CFR Part 51.304(a), revised as of July 1, 2004~~5~~.

(~~4-6-05~~)()

e. Approval and Promulgation of Implementation Plans, 40 CFR Part 52, revised as of July 1, 2004~~5~~.

(~~4-6-05~~)()

f. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 2004~~5~~.

(~~4-6-05~~)()

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g. Ambient Air Quality Surveillance, Quality Assurance Requirements for Prevention of Significant Deterioration (PSD Air Monitoring), 40 CFR Part 58, Appendix B, revised as of July 1, 2004~~5~~. (4-6-05)()

h. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 2004~~5~~. (4-6-05)()

i. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 2004~~5~~. (4-6-05)()

j. National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 2004~~5~~. (4-6-05)()

k. Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 2004~~5~~. (4-6-05)()

l. Permits, 40 CFR Part 72, revised as of July 1, 2004~~5~~. (4-6-05)()

m. Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 2004~~5~~. (4-6-05)()

n. Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 2004~~5~~. (4-6-05)()

o. Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)

p. Determining Conformity of Federal Actions to State or Federal Implementation Plans: Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, 40 CFR Part 93, Subpart A, Sections 93.100 through 93.129, revised as of July 1, 2004~~5~~, except that Sections 93.102(c), 93.104(d), 93.104(e)(2), 93.105, 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b) are expressly omitted from the incorporation by reference. (4-6-05)()

q. The final rule for Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units, 70 Fed. Reg. 28,606 (May 18, 2005), corrected at 70 Fed. Reg. 51,267, is expressly excluded from any incorporation by reference into these rules. ()

(BREAK IN CONTINUITY OF SECTIONS)

200. PROCEDURES AND REQUIREMENTS FOR PERMITS TO CONSTRUCT.

The purposes of Sections 200 through 228 is to establish uniform procedures and requirements for the issuance of "Permits to Construct". As used throughout Sections 200 through 228 and 578

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through 581, major facility shall be defined as major stationary source in 40 CFR 52.21(b), revised as of July 1, 2004~~5~~, and major modification shall be defined as in 40 CFR 52.21(b), revised as of July 1, 2004~~5~~. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr. (4-6-05)()

(BREAK IN CONTINUITY OF SECTIONS)

204. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN NONATTAINMENT AREAS.

New major facilities or major modifications proposed for location in a nonattainment area and which would be major for the nonattainment regulated air pollutant are considered nonattainment new source review (NSR) actions and are subject to the requirements in Section 204. Section 202 contains application requirements and Section 209 contains processing requirements for nonattainment NSR permitting actions. The intent of Section 204 is to incorporate the federal nonattainment NSR rule requirements. (4-6-05)

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 51.165, revised as of July 1, 2004~~5~~, are hereby incorporated by reference. Requirements contained in the following subparts of 40 CFR 52.21, revised as of July 1, 2004~~5~~, are hereby incorporated by reference. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr.

| 40 CFR Reference | 40 CFR Reference Title |
|----------------------------------|---|
| 40 CFR 51.165(a)(1) | Definitions |
| 40 CFR 51.165(a)(2)(ii)(A) - (J) | Applicability Provisions |
| 40 CFR 51.165(a)(6)(i) - (v) | Applicability Provisions |
| 40 CFR 51.165(c) | Clean Unit Test for Emission Units that are Subject to LAER |
| 40 CFR 51.165(d) | Clean Unit Provisions for Emission Units that Achieve an Emission Limitation Comparable to LAER |
| 40 CFR 52.21(z)(1) - (3) and (6) | PCP Exclusion Procedural Requirements |
| 40 CFR 52.21(aa) | Actual PALs |

(4-6-05)()

02. Additional Requirements. The applicant must demonstrate to the satisfaction of the Department the following: (4-6-05)

a. LAER. Except as otherwise provided in Section 204, the new major facility or major modification would be operated at the lowest achievable emission rate (LAER) for the nonattainment regulated air pollutant, specifically: (4-6-05)

i. A new major facility would meet the lowest achievable emission rate at each new emissions unit which emits the nonattainment regulated air pollutant; and (4-5-00)

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ii. A major modification would meet the lowest achievable emission rate at each new or modified emissions unit which has a net emissions increase of the nonattainment regulated air pollutant. (4-5-00)

b. Required offsets. Allowable emissions from the new major facility or major modification are offset by reductions in actual emissions from stationary sources, facilities, and/or mobile sources in the nonattainment area so as to represent reasonable further progress. All offsetting emission reductions must satisfy the requirements for emission reduction credits (Section 460) and provide for a net air quality benefit which satisfies the requirements of Section 208. If the offsets are provided by other stationary sources or facilities, a permit to construct shall not be issued for the new major facility or major modification until the offsetting reductions are made enforceable through the issuance of operating permits. The new major facility or major modification may not commence operation, and an operating permit for the new major facility or major modification shall not be effective before the date the offsetting reductions are achieved. (4-5-00)

c. Compliance status. All other sources in the State owned or operated by the applicant, or by any entity controlling, controlled by or under common control with such person, are in compliance with all applicable emission limitations and standards or subject to an enforceable compliance schedule. (5-1-94)

d. Effect on visibility. The effect on visibility of any federal Class I area, Class I area designated by the Department, or integral vista of a mandatory federal Class I area, by the new major facility or major modification is consistent with making reasonable progress toward remedying existing and preventing future visibility impairment. Any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the criteria adopted pursuant to 40 CFR Part 51.304(a), may be exempted from Section 204 by the Department. (4-6-05)

03. Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 51.165 or 40 CFR 52.21 incorporated in Section 204, the nonmajor facility or stationary source permitting requirements of Sections 200 through 228 apply, including the exemptions in Sections 220 through 223. (4-6-05)

205. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN ATTAINMENT OR UNCLASSIFIABLE AREAS.

The prevention of significant deterioration (PSD) program is a construction permitting program for new major facilities and major modifications to existing major facilities located in areas in attainment or in areas that are unclassifiable for any criteria air pollutant. Section 202 contains application requirements and Section 209 contains processing requirements for PSD permit actions. The intent of Section 205 is to incorporate the federal PSD rule requirements. (4-6-05)

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 52.21, revised as of July 1, 2004~~5~~, are hereby incorporated by reference. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr.

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| 40 CFR Reference | 40 CFR Reference Title |
|----------------------------------|--|
| 40 CFR 52.21(a)(2) | Applicability Procedures |
| 40 CFR 52.21(b) | Definitions |
| 40 CFR 52.21(i) | Review of Major Stationary Sources and Major Modifications - Source Applicability and Exempting |
| 40 CFR 52.21(j) | Control Technology Review |
| 40 CFR 52.21(k) | Source Impact Analysis |
| 40 CFR 52.21(r) | Source Obligation |
| 40 CFR 52.21(v) | Innovative Control Technology |
| 40 CFR 52.21(w) | Permit Rescission |
| 40 CFR 52.21(x) | Clean Unit Test |
| 40 CFR 52.21(y) | Clean Unit Provisions for Emissions Units that Achieve an Emission Limit Comparable to BACT |
| 40 CFR 52.21(z)(1) - (3) and (6) | PCP Exclusion Procedural Requirements |
| 40 CFR 52.21(aa) | Actual PALS |

(4-6-05)()

02. Exception to Incorporation by Reference of 40 CFR 52.21. Every use of the word Administrator in 40 CFR 52.21 means the Department except for the following: (4-6-05)

a. In 40 CFR 52.21(b)(17), the definition of federally enforceable, Administrator means the EPA Administrator. (4-6-05)

b. In 40 CFR 52.21(l)(2), air quality models, Administrator means the EPA Administrator. (4-6-05)

c. In 40 CFR 52.21(b)(43), permit program approved by the Administrator, Administrator means the EPA Administrator. (4-6-05)

d. In 40 CFR 52.21(b)(48)(ii)(c), MACT standard that is proposed or promulgated by the Administrator, Administrator means the EPA Administrator. (4-6-05)

e. In 40 CFR 52.21(b)(50)(i), regulated NSR pollutant as defined by Administrator, Administrator means the EPA Administrator. (4-6-05)

f. In 40 CFR 52.21(y)(4)(i), Administrator for BACT, LAER and RACT clearinghouse, Administrator means the EPA Administrator. (4-6-05)

03. Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 52.21 incorporated in Section 205, the nonmajor facility or stationary source permitting requirements of Sections 200 through 228 apply,

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including the exemptions in Sections 220 through 223.

(4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

209. PROCEDURE FOR ISSUING PERMITS.

No Changes to Subsections 209.01 through 209.04

05. Permit to Construct Procedures for Tier I Sources. For Tier I sources that require a permit to construct, the owner or operator shall either: (5-1-94)

a. Submit only the information required by Sections 200 through 219 for a permit to construct, in which case: (3-23-98)

i. A permit to construct or denial will be issued in accordance with Subsections 209.01.a. and 209.01.b. (5-1-94)

ii. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (3-23-98)

iii. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02. (4-5-00)

iv. Unless a different time is prescribed by these rules, the applicable requirements contained in a permit to construct will be incorporated into the Tier I operating permit during renewal (Section ~~269~~369). Where an existing Tier I permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation. Tier I sources required to meet the requirements under Section 112(g) of the Clean Air Act (Section 214), or to have a permit under the preconstruction review program approved into the applicable implementation plan under Part C (Section 205) or Part D (Section 204) of Title I of the Clean Air Act, shall file a complete application to obtain a Tier I permit revision within twelve (12) months after commencing operation. (~~3-19-99~~)()

v. The application or minor or significant permit modification request shall be processed in accordance with timelines: Section 361 and Subsections 367.02 through 367.05. (3-19-99)

vi. The final Tier I operating permit action shall incorporate the relevant terms and conditions from the permit to construct; or (4-5-00)

b. Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 386 for a Tier I operating permit, or Tier I operating permit

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modification, in which case: (4-5-00)

- i. Completeness of the application shall be determined within thirty (30) days. (5-1-94)
 - ii. The Department shall prepare a proposed permit to construct or denial in accordance with Sections 200 through 219 and a draft Tier I operating permit or Tier I operating permit modification in accordance with Sections 300 through 386 within sixty (60) days. (4-5-00)
 - iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364 and 365 on the proposed permit to construct or denial and draft Tier I operating permit or Tier I operating permit modification. (4-5-00)
 - iv. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial within fifteen (15) days of the close of the public comment period. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)
 - v. The final permit to construct will be sent to EPA, along with the proposed Tier I operating permit or modification. The proposed Tier I operating permit or modification shall be sent for review in accordance with Section 366. (4-5-00)
 - vi. The Tier I operating permit, or Tier I operating permit modification, will be issued in accordance with Section 367. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02; or (4-5-00)
- c.** Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 381 for a Tier I operating permit, or Tier I operating permit modification, in which case: (4-5-00)
- i. Completeness of the application shall be determined within thirty (30) days. (4-5-00)
 - ii. The Department shall prepare a draft permit to construct or denial in accordance with Sections 200 through 219 and that also meets the requirements of Sections 300 through 381 within sixty (60) days. (4-5-00)
 - iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364, and 365 on the draft permit to construct or denial. (4-5-00)
 - iv. The Department shall prepare and send a proposed permit to construct or denial to EPA for review in accordance with Section 366. EPA review of the proposed permit to construct or denial in accordance with Section 366 can occur concurrently with public comment and affected state review of the draft permit, as provided in Subsection 209.05.c.iii. above, except that if the draft permit or denial is revised in response to public comment or affected state review, the Department must send the revised proposed permit to construct or denial to EPA for review in accordance with Section 366. (4-5-00)

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v. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial in accordance with Section 367. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)

vi. The permittee may, at any time after issuance, request that the permit to construct requirements be incorporated into the Tier I operating permit through an administrative amendment in accordance with Section 381. The owner or operator may operate the source or modification upon submittal of the request for an administrative amendment. (4-5-00)

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0506

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 3, 2005, Vol. 05-8, pages 350 through 361. The agency received no public comments; however, Subsections 209.06 and 404.05 were revised for the purpose of correcting typographic errors. The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the August 3, 2005, Idaho Administrative Bulletin, Vol. 05-8, pages 350 through 361.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Martin Bauer at martin.bauer@deq.idaho.gov, (208) 373-0440.

DATED this 2nd day of November, 2005.

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The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

September 7, 2005, 4 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: Last year the Department of Environmental Quality (DEQ) revised its major permitting program due to changes in federal law. This docket revises a number of definitions to provide consistency between the major and minor air quality permitting programs. Also proposed are two new subsections allowing for the transfer of permit to construct and Tier II operating permits.

The text of the rule has been developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Both major and minor sources of air pollution may be interested in participating in this rulemaking. Special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may also wish to submit comments on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2005 for adoption of a pending rule. The rule is

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expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, March 3, 2004, Vol. 04-3, page 42, under Docket No. 58-0101-0401.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440 or mbauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 7, 2005.

DATED this 1st day of July, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

006. GENERAL DEFINITIONS.

Subsections 006.01 through 006.55 have no changes

56. Modification. Any physical change in, or change in the method of operation of, a stationary source or facility which ~~increases the amount of any regulated air pollutant emitted by such stationary source or facility~~ results in an emission increase as defined in Section 007 or which results in the emission of any regulated air pollutant not previously emitted except that routine maintenance, repair and replacement shall not be considered physical changes, and the following shall not be considered a change in the method of operation: (4-5-00)()

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- a. An increase in the production rate if such increase does not exceed the operating design capacity of the affected stationary source, and if a more restrictive production rate is not specified in a permit; (5-1-94)
- b. An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and (5-1-94)
- c. Use of an alternative fuel or raw material if the stationary source is specifically designed to accommodate such fuel or raw material and use of such fuel or raw material is not specifically prohibited in a permit. (4-5-00)

Subsections 006.57 through 006.114 have no changes

007. DEFINITIONS FOR THE PURPOSES OF SECTIONS 200 THROUGH 228 AND 400 THROUGH 461.

01. Adverse Impact on Visibility. Visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairments, and how these factors correlate with: (4-5-00)

- a. Times of visitor use of the Federal Class I area; and (4-5-00)
- b. The frequency and timing of natural conditions that reduce visibility. (4-5-00)
- c. This term does not include affects on integral vistas. (4-5-00)

02. Agricultural Activities and Services. For the purposes of Subsection 222.02.f., the usual and customary activities of cultivating the soil, producing crops and raising livestock for use and consumption. Agricultural activities and services do not include manufacturing, bulk storage, handling for resale or the formulation of any agricultural chemical listed in Sections 585 or 586. (5-1-94)

03. Baseline Actual Emissions. The rate of emissions, in tons per year, of a regulated air pollutant as determined by the following provisions: ()

a. For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the regulated air pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the five (5) year period immediately preceding when the owner or operator begins actual construction of the project. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. ()

- i. The average rate shall include fugitive emissions to the extent quantifiable, and

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emissions associated with startups, shutdowns, and malfunctions. ()

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive twenty-four (24) month period. ()

iii. For a regulated air pollutant, when a project involves multiple emissions units, only one (1) consecutive twenty-four (24) month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated air pollutant. ()

iv. The average rate shall not be based on any consecutive twenty-four (24) month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subsection 007.03.a.ii. ()

b. For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the regulated air pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the ten (10) year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Director for a permit required under these rules, whichever is earlier, except that the ten (10) year period shall not include any period earlier than November 15, 1990. ()

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. ()

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive twenty-four (24) month period. ()

iii. The average rate shall be adjusted downward to exclude any emission limitation with which the source must currently comply, had such source been required to comply with such limitations during the consecutive twenty-four (24) month period; however, if an emission limitation is part of a standard or other requirement under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the Department has taken credit for such emissions reductions in an attainment demonstration or maintenance plan. ()

iv. For a regulated air pollutant, when a project involves multiple emissions units, only one (1) consecutive twenty-four (24) month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated air pollutant. ()

v. The average rate shall not be based on any consecutive twenty-four (24) month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subsections 006.03.b.ii. and 006.03.b.iii. ()

c. For a new emissions unit, the baseline actual emissions for purposes of

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determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero (0); and, thereafter, for all other purposes, shall equal the unit's potential to emit. ()

d. For a plantwide applicability limit (PAL) for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in Subsection 007.03.a, for other existing emissions units in accordance with the procedures contained in Subsection 007.03.b, and for a new emissions unit in accordance with the procedures contained in Subsection 007.03.c. ()

04. Begin Actual Construction. Commence construction. ()

05. Emissions Increase. The amount by which projected actual emissions exceed baseline actual emissions of an emissions unit. ()

036. Innovative Control Technology. Any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice, or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental effects. (5-1-94)

047. Integral Vista. A view perceived from within the mandatory federal Class I area of a specific landmark or panorama located outside the boundary of the mandatory federal Class I area. Integral vistas are identified by the responsible federal land manager in accordance with criteria adopted pursuant to 40 CFR Part 51.304(a). (5-1-94)

058. Mandatory Federal Class I Area. Any area designated under 42 U.S.C. Section 7472(a) as Class I and never to be redesignated. (5-1-94)

069. Net Emissions Increase. ~~Any increase in actual emissions~~ For purposes of Sections 204 and 205, a net emissions increase shall be defined by the federal regulations incorporated by reference. For purposes of Section 210, a net emissions increase shall be an emissions increase from a particular modification plus any other increases and decreases in actual emissions at the facility that are creditable and contemporaneous with the particular modification, where: (4-5-00)()

a. A creditable increase or decrease in actual emissions is contemporaneous with a particular modification if it occurs between the date five (5) years before the commencement of construction or modification on the particular change and the date that the increase from the particular modification occurs. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred and eighty (180) days; (4-5-00)

b. A decrease in actual emissions is creditable only if it satisfies the requirements for emission reduction credits (Section 460) and has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular modification, and is federally enforceable at and after the time that construction of the modification commences. (4-5-00)

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c. The increase in toxic air pollutant emissions from an already operating or permitted source is not included in the calculation of the net emissions increase for a proposed new source or modification if: (5-1-95)

i. The already operating or permitted source commenced construction or modification prior to July 1, 1995; or (5-1-95)

ii. The uncontrolled emission rate from the already operating or permitted source is ten per cent (10%) or less of the applicable screening emissions level listed in Section 585 or 586; or (6-30-95)

iii. The already operating or permitted source is an environmental remediation source subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order. (6-30-95)

~~0710~~. **Pilot Plant.** A stationary source located at least one quarter (1/4) mile from any sensitive receptor that functions to test processing, mechanical, or pollution control equipment to determine full-scale feasibility and which does not produce products that are offered for sale except in developmental quantities. (5-1-94)

11. Projected Actual Emissions. ()

a. The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated air pollutant in any one (1) of the five (5) years (twelve (12) month period) following the date the unit resumes regular operation after the project, or in any one (1) of the ten (10) years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated air pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at an existing major stationary source. ()

b. In determining the projected actual emissions, the owner or operator of the stationary source: ()

i. Shall consider all relevant information including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with state or federal regulatory authorities, and compliance plans under the approved state implementation plan; and ()

ii. Shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions; and ()

iii. Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive twenty-four (24) month period used to

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establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or ()

iv. In lieu of using the method set out in Subsections 007.11.b.i. through 007.11.b.iii., may elect to use the emissions unit's potential to emit, in tons per year. ()

0812. Reasonable Further Progress (RFP). Annual incremental reductions in emissions of the applicable regulated air pollutant as identified in the SIP which are sufficient to provide for attainment of the applicable ambient air quality standard by the required date. (4-5-00)

0913. Secondary Emissions. Emissions which would occur as a result of the construction, modification, or operation of a stationary source or facility, but do not come from the stationary source or facility itself. Secondary emissions must be specific, well defined, quantifiable, and affect the same general area as the stationary source, facility, or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the primary stationary source, facility or modification. Secondary emissions do not include any emissions which come directly from a mobile source regulated under 42 U.S.C. Sections 7521 through 7590. (4-5-00)

104. Sensitive Receptor. Any residence, building or location occupied or frequented by persons who, due to age, infirmity or other health based criteria, may be more susceptible to the deleterious effects of a toxic air pollutant than the general population including, but not limited to, elementary and secondary schools, day care centers, playgrounds and parks, hospitals, clinics and nursing homes. (5-1-94)

145. Short Term Source. Any new stationary source or modification to an existing source, with an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. (5-1-94)

126. Toxic Air Pollutant Reasonably Available Control Technology (T-RACT). An emission standard based on the lowest emission of toxic air pollutants that a particular source is capable of meeting by the application of control technology that is reasonably available, as determined by the Department, considering technological and economic feasibility. If control technology is not feasible, the emission standard may be based on the application of a design, equipment, work practice or operational requirement, or combination thereof. (5-1-94)

137. Visibility Impairment. Any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

209. PROCEDURE FOR ISSUING PERMITS.

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- 01. General Procedures.** General procedures for permits to construct. (5-1-94)
- a.** Within thirty (30) days after receipt of the application for a permit to construct, the Department shall determine whether the application is complete or whether more information must be submitted and shall notify the applicant of its findings in writing. (5-1-94)
- b.** Within sixty (60) days after the application is determined to be complete the Department shall: (5-1-94)
- i.** Upon written request of the applicant, provide a draft permit for applicant review. Agency action on the permit under this Section may be delayed if deemed necessary to respond to applicant comments. (4-5-00)
- ii.** Notify the applicant in writing of the approval, conditional approval, or denial of the application if an opportunity for public comment is not required pursuant to Subsection 209.01.c. The Department shall set forth reasons for any denial; or (5-1-94)
- iii.** Issue a proposed approval, proposed conditional approval, or proposed denial. (5-1-94)
- c.** An opportunity for public comment will be provided on all applications requiring a permit to construct. Public comment shall be provided on an application for any new major facility or major modification, any new facility or modification which would affect any Class I area, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516, any application which uses an interpollutant trade pursuant to Subsection 210.17, any application which the Director determines an opportunity for public comment should be provided, and any application upon which the applicant so requests. (5-3-03)
- i.** The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, shall be made available to the public in at least one (1) location in the region in which the stationary source or facility is to be located. (5-1-94)
- ii.** The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. (5-1-94)
- iii.** A copy of such notice shall be sent to the applicant and to appropriate federal, state and local agencies. (5-1-94)
- iv.** There shall be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. (5-1-94)
- v.** After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice, or notice of public hearing if one is requested under Subsections 209.02.b.iv. or 209.02.a.ii., unless

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the Director deems that additional time is required to evaluate comments and information received, the Department shall notify the applicant in writing of approval, conditional approval, or denial of the permit. The Department shall set forth the reasons for any denial. (5-1-94)

vi. All comments and additional information received during the comment period, together with the Department's final determination, shall be made available to the public at the same location as the preliminary determination. (5-1-94)

d. A copy of each permit will be sent to the U.S. Environmental Protection Agency. (5-1-94)

02. Additional Procedures for Specified Sources. (5-1-94)

a. For any new major facility or major modification in an attainment or unclassifiable area for any regulated air pollutant. (4-6-05)

i. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the degree of increment consumption that is expected from the new major facility or major modification; and (5-1-94)

ii. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effects of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. (3-23-98)

b. For any new major facility or major modification which would affect a federal Class I area or an integral vista of a mandatory federal Class I area. (5-1-94)

i. If the Department is notified of the intent to apply for a permit to construct, it shall notify the appropriate Federal Land Manager within thirty (30) days; (5-1-94)

ii. A copy of the permit application and all relevant information, including an analysis of the anticipated effects on visibility in any federal Class I area, shall be sent to the Administrator of the U.S. Environmental Protection Agency and the Federal Land Manager within thirty (30) days of receipt of a complete application and at least sixty (60) days prior to any public hearing on the application; (5-1-94)

iii. Notice of every action related to the consideration of the permit shall be sent to the Administrator of the U.S. Environmental Protection Agency; (5-1-94)

iv. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effect of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public

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hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. (3-23-98)

v. The notice of public hearing, if required, shall explain any differences between the Department's preliminary determination and any visibility analysis performed by the Federal Land Manager and provided to the Department within thirty (30) days of the notification pursuant to Subsection 209.02.b.ii. (5-1-94)

vi. Upon a sufficient showing by the Federal Land Manager that a proposed new major facility or major modification will have an adverse impact upon the air quality related values (including visibility) of any federal mandatory Class I area, the Director may deny the application notwithstanding the fact that the concentrations of regulated air pollutants would not exceed the maximum allowable increases for a Class I area. (4-5-00)

03. Establishing A Good Engineering Stack Height. The Department will notify the public of the availability of any fluid model or field study used to establish a good engineering practice stack height and provide an opportunity for a public hearing before issuing a permit or setting an emission standard based thereon. (5-1-94)

04. Revisions of Permits to Construct. The Director may approve a revision of any permit to construct provided the stationary source or facility continues to meet all applicable requirements of Sections 200 through 228. Revised permits will be issued pursuant to procedures for issuing permits (Section 209), except that the requirements of Subsections 209.01.c., 209.02.a., and 209.02.b., shall only apply if the permit revision results in an increase in emissions authorized by the permit or if deemed appropriate by the Director. (7-1-02)

05. Permit to Construct Procedures for Tier I Sources. For Tier I sources that require a permit to construct, the owner or operator shall either: (5-1-94)

a. Submit only the information required by Sections 200 through 219 for a permit to construct, in which case: (3-23-98)

i. A permit to construct or denial will be issued in accordance with Subsections 209.01.a. and 209.01.b. (5-1-94)

ii. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (3-23-98)

iii. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02. (4-5-00)

iv. Unless a different time is prescribed by these rules, the applicable requirements contained in a permit to construct will be incorporated into the Tier I operating permit during renewal (Section 269). Where an existing Tier I permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation. Tier

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I sources required to meet the requirements under Section 112(g) of the Clean Air Act (Section 214), or to have a permit under the preconstruction review program approved into the applicable implementation plan under Part C (Section 205) or Part D (Section 204) of Title I of the Clean Air Act, shall file a complete application to obtain a Tier I permit revision within twelve (12) months after commencing operation. (3-19-99)

v. The application or minor or significant permit modification request shall be processed in accordance with timelines: Section 361 and Subsections 367.02 through 367.05. (3-19-99)

vi. The final Tier I operating permit action shall incorporate the relevant terms and conditions from the permit to construct; or (4-5-00)

b. Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 386 for a Tier I operating permit, or Tier I operating permit modification, in which case: (4-5-00)

i. Completeness of the application shall be determined within thirty (30) days. (5-1-94)

ii. The Department shall prepare a proposed permit to construct or denial in accordance with Sections 200 through 219 and a draft Tier I operating permit or Tier I operating permit modification in accordance with Sections 300 through 386 within sixty (60) days. (4-5-00)

iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364 and 365 on the proposed permit to construct or denial and draft Tier I operating permit or Tier I operating permit modification. (4-5-00)

iv. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial within fifteen (15) days of the close of the public comment period. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)

v. The final permit to construct will be sent to EPA, along with the proposed Tier I operating permit or modification. The proposed Tier I operating permit or modification shall be sent for review in accordance with Section 366. (4-5-00)

vi. The Tier I operating permit, or Tier I operating permit modification, will be issued in accordance with Section 367. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02; or (4-5-00)

c. Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 381 for a Tier I operating permit, or Tier I operating permit modification, in which case: (4-5-00)

i. Completeness of the application shall be determined within thirty (30) days. (4-5-00)

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ii. The Department shall prepare a draft permit to construct or denial in accordance with Sections 200 through 219 and that also meets the requirements of Sections 300 through 381 within sixty (60) days. (4-5-00)

iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364, and 365 on the draft permit to construct or denial. (4-5-00)

iv. The Department shall prepare and send a proposed permit to construct or denial to EPA for review in accordance with Section 366. EPA review of the proposed permit to construct or denial in accordance with Section 366 can occur concurrently with public comment and affected state review of the draft permit, as provided in Subsection 209.05.c.iii. above, except that if the draft permit or denial is revised in response to public comment or affected state review, the Department must send the revised proposed permit to construct or denial to EPA for review in accordance with Section 366. (4-5-00)

v. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial in accordance with Section 367. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)

vi. The permittee may, at any time after issuance, request that the permit to construct requirements be incorporated into the Tier I operating permit through an administrative amendment in accordance with Section 381. The owner or operator may operate the source or modification upon submittal of the request for an administrative amendment. (4-5-00)

06. Transfer of Permits to Construct. ()

a. Transfers by Revision. A permit to construct may be transferred to a new owner or operator in accordance with Subsection 209.04. ()

b. Automatic Transfers. Any permit to construct, with or without transfer prohibition language, may be automatically transferred if: ()

i. The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date; ()

ii. The notice provides written documentation signed by the current and proposed permittees containing a date for transfer of permit responsibility, designation of the proposed permittee's responsible official, and certification that the proposed permittee has reviewed and intends to operate in accordance with the permit terms and conditions; and ()

iii. The Department does not notify the current permittee and the proposed permittee within thirty (30) days of receipt of the notice of the Department's determination that the permit must be revised pursuant to Subsection 209.04. If the Department does not issue such notice, the transfer is effective on the date provided in the notice described in Subsection 209.06.b.ii. ()

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(BREAK IN CONTINUITY OF SECTIONS)

404. PROCEDURE FOR ISSUING PERMITS.

01. General Procedures. General procedures for Tier II operating permits. (5-1-94)

a. Within thirty (30) days after receipt of the application for a Tier II operating permit, the Department shall determine whether the application is complete or whether more information must be submitted and shall notify the applicant of its findings in writing. (5-1-94)

b. Within sixty (60) days after the application is determined to be complete the Department shall: (5-1-94)

i. Notify the applicant in writing of the approval, conditional approval, or denial of the application if an opportunity for public comment is not required pursuant to Subsection 404.01.c. The Department shall set forth reasons for any denial; or (5-1-94)

ii. Issue a proposed approval, proposed conditional approval, or proposed denial. (5-1-94)

c. An opportunity for public comment shall be provided on an application for any Tier II operating permit pursuant to Subsection 401.01, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516 and any other application which the Director determines an opportunity for public comment should be provided. (5-1-94)

i. The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, shall be made available to the public in at least one (1) location in the region in which the stationary source or facility is to be located. (5-1-94)

ii. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. (5-1-94)

iii. A copy of such notice shall be sent to the applicant and to appropriate federal, state and local agencies. (5-1-94)

iv. There shall be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. (5-1-94)

v. After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice, unless the Director deems that additional time is required to evaluate comments and information received, the Department shall notify the applicant in writing of approval, conditional approval, or denial of the permit. The Department shall set forth the reasons for any denial. (5-1-94)

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vi. All comments and additional information received during the comment period, together with the Department's final determination, shall be made available to the public at the same location as the preliminary determination. (5-1-94)

d. A copy of each proposed and final permit will be sent to the U.S. Environmental Protection Agency. (4-5-00)

02. Specific Procedures. Procedures for Tier II operating permits required by the Department under Subsection 401.03. (5-1-94)

a. The Director shall send a notification to the proposed permittee by registered mail of his intention to issue a Tier II operating permit for the facility concerned. The notification shall contain a copy of the proposed permit in draft form stating the proposed emission standards and any required action, with corresponding dates, which must be taken by the proposed permittee in order to achieve or maintain compliance with the proposed Tier II operating permit. (5-1-94)

b. The Department's proposed Tier II operating permit shall be made available to the public in at least one (1) location in the region in which the facility is located. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the facility is located. A copy of such notice shall be sent to the applicant. There shall be a thirty (30) day period after publication for comment on the Department's proposed Tier II operating permit. Such comment shall be made in writing to the Department. (5-1-94)

c. A public hearing will be scheduled to consider the standards and limitations contained in the proposed Tier II operating permit if the proposed permittee files a request therefor with the Department within ten (10) days of receipt of the notification, or if the Director determines that there is good cause to hold a hearing. (5-1-94)

d. After consideration of comments and any additional information submitted during the comment period or at any public hearing, the Director shall render a final decision upon the proposed Tier II operating permit within thirty (30) days of the close of the comment period or hearing. At this time the Director may adopt the entire Tier II operating permit as originally proposed or any part or modification thereof. (5-1-94)

e. All comments and additional information received during the comment period, together with the Department's final permit, shall be made available to the public at the same location as the proposed Tier II operating permit. (5-1-94)

03. Availability of Fluid Models and Field Studies. The Department will notify the public of the availability of any fluid model or field study used to establish a good engineering practice stack height and provide an opportunity for a public hearing before issuing a permit or setting an emission standard based thereon. (5-1-94)

04. Permit Revision or Renewal. The Director may approve a revision of any Tier II operating permit or renewal of any Tier II operating permit provided the stationary source or facility continues to meet all applicable requirements of Sections 400 through 410. Revised

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permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsection 404.01.c. shall only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Director. Renewed Tier II operating permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsections 404.01.c., and 404.02.b. through 404.02.e. shall only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Director. The expiration of a permit will not affect the operation of a stationary source or a facility during the administrative procedure period associated with the permit renewal process.

(7-1-02)

05. Transfer of Tier II Permit.

()

a. Transfers by Revision. A Tier II permit may be transferred to a new owner or operator in accordance with Subsection 404.04.

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b. Automatic Transfers. Any Tier II permit, with or without transfer prohibition language, may be automatically transferred if:

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i. The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date;

()

ii. The notice provides written documentation signed by the current and proposed permittees containing a date for transfer of permit responsibility, designation of the proposed permittee's responsible official, and certification that the proposed permittee has reviewed and intends to operate in accordance with the permit terms and conditions; and

()

iii. The Department does not notify the current permittee and the proposed permittee within thirty (30) days of receipt of the notice of the Department's determination that the permit must be revised pursuant to Subsection 404.04. If the Department does not issue such notice, the transfer is effective on the date provided in the notice described in Subsection 404.05.b.ii.

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0507

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: This rulemaking includes revisions to the Rules for the Control of Air Pollution in Idaho for certain currently-listed sources that are exempt from obtaining an air quality permit to construct. This pending rule deletes the director's discretion exemption, which is not approved by the federal government as part of the state implementation plan (SIP), and replace it with three specific exemptions. Two of these source exemptions are currently exempt under the Director's discretion. If approved by the Legislature, DEQ intends to submit the final rule as a SIP revision. Facility types affected are certain size crematoriums, certain petroleum remediation sources and dry cleaning facilities that are not major sources. In addition, this rule increases the number of operating hours allowed for stationary internal combustion engines used for emergency purposes. The agency received no public comments, and the rule has been adopted as initially proposed in the September 7, 2005 Idaho Administrative Bulletin, Vol. 05-9, pages 319 through 322. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Martin Bauer at martin.bauer@deq.idaho.gov, (208) 373-0440.

DATED this 17th day of November, 2005.

Paula J. Wilson

ENVIRONMENT, ENERGY & TECHNOLOGY

DEPARTMENT OF ENVIRONMENTAL QUALITY
Rules for the Control of Air Pollution in Idaho

Docket No. 58-0101-0507
PENDING RULE

Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

October 11, 2005, 4 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) is proposing revisions to the “Rules for the Control of Air Pollution in Idaho” for certain currently-listed sources that are exempt from obtaining an air quality permit to construct. Facility types affected are certain size crematoriums, certain petroleum remediation sources and dry cleaning facilities that are not major sources. In addition, DEQ proposes to increase the number of operating hours allowed for stationary internal combustion engines used for emergency purposes.

The text of the rule has been developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Both major and minor sources of air pollution may be interested in participating in this rulemaking. Special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may also wish to submit comments on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

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IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, March 3, 2004, Volume 04-3, page 42, under Docket No. 58-0101-0401.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rulemaking, contact Martin Bauer at (208) 373-0440, martin.bauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before October 11, 2005.

DATED this 3rd day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

222. CATEGORY II EXEMPTION.

No permit to construct is required for the following sources. (4-5-00)

01. Exempt Source. A source that satisfies the criteria set forth in Section 220 and that is specified below: (4-5-00)

a. Laboratory equipment used exclusively for chemical and physical analyses, research or education, including, but not limited to, ventilating and exhaust systems for laboratory hoods. To qualify for this exemption, the source shall: (5-1-94)

i. Comply with Section 223. (4-5-00)

ii. Have potential emissions that are less than one percent (1%) of the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-5-00)

b. Environmental characterization activities including emplacement and operation of

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field instruments, drilling of sampling and monitoring wells, sampling activities, and environmental characterization activities. (4-5-00)

c. Stationary internal combustion engines of less than or equal to six hundred (600) horsepower and which are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. To qualify for this exemption, the source must be operated in accordance with the following: (5-1-94)

i. One hundred (100) horsepower or less -- unlimited hours of operation. (5-1-94)

ii. One hundred one (101) to two hundred (200) horsepower -- less than four hundred fifty (450) hours per month. (5-1-94)

iii. Two hundred one (201) to four hundred (400) horsepower -- less than two hundred twenty-five (225) hours per month. (5-1-94)

iv. Four hundred one (401) to six hundred (600) horsepower -- less than one hundred fifty (150) hours per month. (5-1-94)

d. Stationary internal combustion engines used exclusively for emergency purposes which are operated less than ~~five~~ five hundred (2500) hours per year and are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. (~~4-5-00~~)()

e. A pilot plant that uses a slip stream from an existing process stream not to exceed ten percent (10%) of that existing process stream or which satisfies the following: (4-5-00)

i. The source shall comply with Section 223. For carcinogen emissions, the owner or operator may utilize a short term adjustment factor of ten (10) by multiplying either the acceptable ambient concentration or the screening emissions level, but not both, by ten (10). (4-5-00)

ii. The source shall have uncontrolled potential emissions that are less than one percent (1%) of the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-5-00)

iii. The exemption for a pilot plant shall terminate one (1) year after the commencement of operations and shall not be renewed. (4-5-00)

02. Other Exempt Sources. A source that satisfies the criteria set forth in Section 220 and that is specified below: (4-5-00)

a. Air conditioning or ventilating equipment not designed to remove air pollutants generated by or released from equipment. (5-1-94)

b. Air pollutant detectors or recorders, combustion controllers, or combustion shutoffs. (5-1-94)

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c. Fuel burning equipment for indirect heating and for heating and reheating furnaces using natural gas, propane gas, liquified petroleum gas, or biogas (gas produced by the anaerobic decomposition of organic material through a controlled process) with hydrogen sulfide concentrations less than two hundred (200) ppmv exclusively with a capacity of less than fifty (50) million btu's per hour input. ~~(5-1-94)~~()

d. Other fuel burning equipment for indirect heating with a capacity of less than one million (1,000,000) btu's per hour input. (5-1-94)

e. Mobile internal combustion engines, marine installations and locomotives. (5-1-94)

f. Agricultural activities and services. (5-1-94)

g. Retail gasoline, natural gas, propane gas, liquified petroleum gas, distillate fuel oils and diesel fuel sales. (5-1-94)

h. Used Oil Fired Space Heaters which comply with all the following requirements: (7-1-97)

i. The used oil fired space heater burns only used oil that the owner or operator generates on site, that is derived from households, such as used oil generated by individuals maintaining their personal vehicles, or on-specification used oil that is derived from commercial generators provided that the generator, transporter and owner or operator burning the oil for energy recovery comply fully with IDAPA 58.01.05.015, "Rules and Standards for Hazardous Waste"; (7-1-97)

(1) For the purposes of Subsection 222.02.h., "used oil" refers to any oil that has been refined from crude oil or any synthetic oil that has been used and, as a result of such use, is contaminated by physical or chemical impurities. (4-5-00)

(2) For the purposes of Subsection 222.02.h., "used oil fired space heater" refers to any furnace or apparatus and all appurtenances thereto, designed, constructed and used for combusting used oil for energy recovery to directly heat an enclosed space. (4-5-00)

ii. Any used oil burned is not contaminated by added toxic substances such as solvents, antifreeze or other household and industrial chemicals; (7-1-97)

iii. The used oil fired space heater is designed to have a maximum capacity of not more than one half (0.5) million BTU per hour; (4-5-00)

iv. The combustion gases from the used oil fired space heater are vented to the ambient air through a stack equivalent to the type and design specified by the manufacturer of the heater and installed to minimize down wash and maximize dispersion; and (7-1-97)

v. The used oil fired space heater is of modern commercial design and manufacture, except that a homemade used oil fired space heater may be used if, prior to the operation of the homemade unit, the owner or operator submits documentation to the Department demonstrating,

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to the satisfaction of the Department, that emissions from the homemade unit are no greater than those from modern commercially available units. (7-1-97)

i. Multiple chamber crematory retorts used to cremate human or animal remains using natural gas exclusively with a maximum average charge capacity of two hundred (200) pounds of remains per hour and a minimum secondary combustion chamber temperature of one thousand five hundred (1500) degrees Fahrenheit while operating. ()

i. Petroleum environmental remediation source by vapor extraction with an operation life not to exceed five (5) years (except for landfills). The short-term adjustment factor in Subsection 210.15 cannot be used if the remediation is within five hundred (500) feet of a sensitive receptor. Forms are available at www.deq.idaho.gov to help assist sources in this exemption determination. ()

k. Dry cleaning facilities that are not major under, but subject to, 40 CFR Part 63, Subpart M. ()

~~03. Any Other Source Specifically Exempted by the Department. A list of those sources unconditionally exempted by the Department will be maintained by the Department and made available upon written request. All sources exempted by the Department shall: (4-5-00)~~

~~a. Be analyzed by the Department and determined to meet the requirements of Subsections 220.01.a.i. and 220.01.a.ii. (4-5-00)~~

~~b. Be analyzed by the Department and determined not to cause or significantly contribute to a violation of any ambient air quality standard. (4-5-00)~~

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0508

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, October 5, 2005, Vol. 05-10, pages 704 through 710. The one public comment received is in support of the proposed rule. The rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Martin Bauer at martin.bauer@deq.idaho.gov, (208) 373-0440.

DATED this 17th day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255

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DEPARTMENT OF ENVIRONMENTAL QUALITY
Rules for the Control of Air Pollution in Idaho

Docket No. 58-0101-0508
PENDING RULE

(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Temporary And Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

November 4, 2005, 3 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) announced a negotiated rulemaking in the March 3, 2004 issue of the Idaho Administrative Bulletin under Docket 58-0101-0401 to review, and revise as necessary, the structure and efficiency of the air quality permitting rules to modernize, update, and clarify appropriate portions.

This proposed rule addresses the process for permitting air quality minor sources (i.e., sources that are not major for Prevention of Significant Deterioration or New Source Review) that wish to obtain a facility-wide emission cap. This will be a voluntary option that will provide facilities increased operational flexibility while maintaining air quality.

The text of the rule has been developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Industry representatives, special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may wish to submit comments on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

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IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, March 3, 2004, Vol. 04-3, page 42, under Docket No. 58-0101-0401.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440, martin.bauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before November 4, 2005.

DATED this 18th day of August, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
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(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

165. -- ~~19974~~. (RESERVED).

175. Procedures And Requirements For Permits Establishing A Facility Emissions Cap.
The purpose of Sections 176 through 181 is to establish uniform procedures to obtain a Facility Emissions Cap (FEC) for stationary sources or facilities (hereinafter referred to as facility or facilities). A permit establishing a FEC will be issued pursuant to Sections 200 through 228 or Sections 400 through 410. ()

176. Facility Emissions Cap.

01. Optional Facility Emissions Cap. An owner or operator of a facility may request a FEC to establish an enforceable facility-wide emission limitation. ()

02. Applicability. ()

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a. The owner or operator of any facility, which is not a major facility as defined in Sections 204 or 205, may apply to the Department for a permit to establish a FEC. ()

b. FECs are available to new sources, existing sources undergoing a modification, and existing sources that request a FEC. ()

03. Definitions. For the purposes of Sections 175 through 181, the following terms shall be defined as below. ()

a. Baseline actual emissions. As defined in Section 007. ()

b. Design concentration. The ambient concentration used in establishing the FEC. ()

c. Facility emissions cap (FEC). A facility-wide emission limitation expressed in tons per year, for any criteria pollutant or hazardous air pollutant established in accordance with Sections 176 through 181. A FEC is calculated using baseline actual emissions plus an operational variability component and a growth component. ()

d. FEC pollutant. The pollutant for which a FEC is established. ()

e. Growth component. The level of emissions requested by the applicant and approved by the Department to allow for potential future business growth or facility changes that may increase emissions above baseline actual emissions plus the operational variability component. ()

f. Operational variability component. The level of emissions up to the significant emission rate (SER) minus one (1) ton per year but no more than the facility's potential to emit (PTE). If the proposed FEC pollutant does not have a SER listed in Section 006 or has a SER less than or equal to ten (10) tons per year, the operational variability component is the level of emissions requested by the applicant and approved by the Department. ()

177. Application Procedures.

In addition to the information required pursuant to Sections 202 or 402, whichever is applicable, applications requesting a FEC must include the information required under Sections 176 through 181 and Subsections 177.01 through 177.03. ()

01. Estimates of Emissions. A proposed FEC for each pollutant requested by the facility, including the basis for calculating the FEC. ()

02. Estimates of Ambient Concentrations. ()

a. Estimates of ambient concentrations will be based on the most recent applicable and technically appropriate methods and most representative data available to the Department unless otherwise approved by the Department. ()

b. Estimates of ambient concentrations may include projections of alternative future changes within the proposed FEC. ()

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c. For a new, existing, or modified facility, a demonstration that for each FEC pollutant, the FEC will not cause or significantly contribute to a violation of any ambient air quality standard. ()

d. For renewal of terms and conditions establishing a FEC, it is presumed that the previous permitting analysis is satisfactory, unless the Department determines otherwise. ()

03. Monitoring and Recordkeeping. The application must include proposed means for the facility to determine facility emissions on a rolling twelve (12) month consecutive basis. ()

178. Standard Contents Of Permits Establishing A Facility Emissions Cap.

In addition to the elements required by Sections 203 and 211 or Sections 403 and 405, whichever is applicable, the Department shall have the authority to impose, implement and enforce the terms in Subsections 178.01 through 178.05 and conditions establishing a FEC. ()

01. Emission Limitations and Standards. All permits establishing use of a FEC shall contain annual facility wide emissions limitations for each FEC pollutant. ()

02. Monitoring. All permits establishing a FEC shall contain sufficient monitoring to ensure compliance with the FEC on a rolling twelve (12) month consecutive basis. ()

03. Recordkeeping. All permits establishing a FEC shall include the following: ()

a. Sufficient recordkeeping to assure compliance with the FEC. ()

b. Retention of required monitoring records and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report or application. Supporting information includes, but is not limited to, calibration and maintenance records and original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the permit. ()

04. Reporting. All permits establishing a FEC shall include the following: ()

a. Sufficient reporting to assure compliance with the permit establishing the FEC. ()

b. Submittal of an annual report each year on or before the anniversary date of permit issuance. All required reports must be certified in accordance with Section 123. ()

05. Duration. Each permit establishing a FEC shall state that the terms and conditions establishing the FEC are effective for a fixed term of five (5) years. ()

179. Procedures For Issuing Permits Establishing A Facility Emissions Cap.

01. General Procedures. Procedures for issuing permits establishing a FEC will follow Sections 209 or 404, whichever is applicable. ()

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02. Renewal. The renewal of the terms and conditions establishing a FEC are subject to the same procedural requirements for issuing permits (Subsection 179.01) and Subsections 179.02.a. through 179.02.d.: ()

a. The permittee shall submit a complete application to the Department for a renewal of the terms and conditions establishing the FEC at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing permit. To ensure that the term of the permit does not expire before the terms and conditions are renewed, the permittee is encouraged to submit the application nine (9) months prior to expiration. ()

b. If a timely and complete application for a renewal of the terms and conditions establishing the FEC is submitted, but the Department fails to issue or deny the renewal permit before the end of the term of the previous permit, then all the terms and conditions of the previous permit shall remain in effect until the renewal permit has been issued or denied. ()

c. Expiration of the terms and conditions establishing a FEC may be grounds to terminate the facility's right to operate pursuant to Sections 176 through 181, unless a timely and complete renewal application has been submitted. ()

d. On renewal, the Department may adjust a FEC with an unused growth component in accordance with the Idaho Environmental Protection and Health Act, Chapter 1, Title 39, Idaho Code, and these rules. ()

03. Reopening the FEC. The Department may reopen a FEC to: ()

a. Reduce the FEC to reflect newly applicable federal requirements (for example, NSPS) with compliance dates after the issuance of the permit establishing the FEC. ()

b. Reduce the FEC consistent with any other requirement that is enforceable as a practical matter, and that the state may impose on the facility under the Idaho Environmental Protection and Health Act, Chapter 1, Title 39, Idaho Code, and these rules. ()

04. FEC Termination. The Director may approve a revision of a permit establishing a FEC to terminate the FEC, provided the permittee complies with Subsections 209.04 or 404.04, as applicable, and Subsections 179.04.a. through 179.04.c.: ()

a. The permittee may request a revision of the permit establishing the FEC to terminate the FEC at anytime prior to the expiration of the permit. The permittee is encouraged to submit an application for a permit to construct or Tier I operating permit, as applicable, six (6) months prior to the time the permittee wishes to terminate the FEC. ()

b. The FEC established in the permit shall remain in effect until the Department issues a new permit to construct or Tier I operating permit, as applicable. ()

c. Nothing in Section 179 prohibits a permittee from requesting a permit revision to terminate the FEC during the permit renewal process. ()

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180. Revisions To Permits Establishing A Facility Emissions Cap.

Section 180 requires revisions to terms and conditions establishing a FEC. The permittee is exempt from Sections 200 through 228 unless the permittee chooses to use those rules to process any change to the permit, except as provided in Subsection 180.02. ()

01. Criteria. A permit revision is required for the following: ()

a. A change to existing monitoring, reporting or recordkeeping requirements in the permit establishing the FEC; ()

b. A change to the FEC; or ()

c. A change to the facility that would impose new requirements not included in the permit establishing the FEC. ()

02. Permit Revision Application Procedures. A permittee may initiate a permit revision by submitting a permit revision application to the Department or by complying with other applicable sections (Sections 200 or 400). For revision of terms and conditions establishing the FEC, it is presumed that the previous permitting analysis is satisfactory unless the Department determines otherwise. A permit revision application shall: ()

a. Meet the standard application requirements of Section 177; ()

b. Describe the proposed permit revision; ()

c. Describe and quantify the change in emissions above the FEC permit limit; and ()

d. Identify new requirements resulting from the change. ()

03. Permit Revisions. The Department will process permit revisions pursuant to Section 209 or Section 404. ()

181. Notice And Record-Keeping Of Estimates Of Ambient Concentrations.

Section 181 authorizes facility changes that comply with the terms and conditions establishing the FEC, but that are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC. No permit revision shall be required for facility changes implemented in accordance with Section 181. ()

01. Notice. For facility changes that comply with the terms and conditions establishing the FEC, but are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee shall review the estimate of ambient concentration analysis. ()

a. In the event that the facility change would result in a significant contribution above the design concentration determined by the estimate of ambient concentration analysis approved for the permit establishing the FEC, but does not cause or significantly contribute to a violation to any ambient air quality standard, the permittee shall provide notice to the Department in

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accordance with Subsection 181.01.b. ()

b. Notice procedures. The permittee may make a facility change under Section 181 if the permittee provides written notification to the Department so that the notification is received at least seven (7) days in advance of the proposed change or, in the event of an emergency, the permittee provides the notification so that it is received at least twenty-four (24) hours in advance of the proposed change. For each such change, the written notification shall: ()

i. Describe the proposed change; ()

ii. Describe and quantify expected emissions; and ()

iii. Provide the estimated ambient concentration analysis. ()

02. Recordkeeping. For facility changes that comply with the terms and conditions establishing the FEC, but are not included in the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee shall review the estimate of ambient concentration analysis. In the event the facility change would not result in a significant contribution above the design concentration determined by the estimate of ambient concentration analysis approved for the permit establishing the FEC, the permittee shall record and maintain documentation on-site of the review. ()

03. Estimates of Ambient Concentrations. Estimates of ambient concentrations shall be consistent with the estimate of ambient concentration analysis approved for the permit establishing the FEC unless the Department determines that other technical methods are appropriate. The permittee shall include any changes to the facility that are not included in the originally approved estimate of ambient concentration analysis. ()

182. -- 199. (Reserved).

(BREAK IN CONTINUITY OF SECTIONS)

201. PERMIT TO CONSTRUCT REQUIRED.

No owner or operator may commence construction or modification of any stationary source, facility, major facility, or major modification without first obtaining a permit to construct from the Department which satisfies the requirements of Sections 200 through 228 unless the source is exempted in any of Sections 220 through 223, or the owner or operator complies with Section 213 and obtains the required permit to construct, or the owner or operator complies with Sections 175 through 181, or the source operates in accordance with all of the applicable provisions of a permit by rule. (7-1-02)()

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(BREAK IN CONTINUITY OF SECTIONS)

401. TIER II OPERATING PERMIT.

01. Optional Tier II Operating Permits. The owner or operator of any stationary source or facility which is not subject to (or wishes to accept limitations on the facility's potential to emit so as to not be subject to) Sections 300 through 399 may apply to the Department for an operating permit to: (7-1-02)

- a. Authorize the use of alternative emission limits (bubbles) pursuant to Section 440; (5-1-94)
- b. Authorize the use of an emission offset pursuant to Sections 204.02.b. or 206; (4-6-05)
- c. Authorize the use of a potential to emit limitation, an emission reduction or netting transaction to exempt a facility or modification from certain requirements for a permit to construct; (4-5-00)
- d. Authorize the use of a potential to emit limitation to exempt the facility from Tier I permitting requirements. (4-5-00)
- e. Bank an emission reduction credit pursuant to Section 461; (5-1-94)

02. Required Tier II Operating Permits. A Tier II operating permit is required for any stationary source or facility which is not subject to Sections 300 through 399 with a permit to construct which establishes any emission standard different from those in these rules. (7-1-02)

03. Tier II Operating Permits Required by the Department. The Director may require or revise a Tier II operating permit for any stationary source or facility whenever the Department determines that: (5-1-94)

- a. Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or (4-5-00)
- b. Specific emission standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. (5-1-94)

04. Multiple Tier II Operating Permits. Subject to approval by EPA, the Director may issue one (1) or more Tier II operating permits to a facility which allow any specific stationary source or emissions unit within that facility a future compliance date of up to three (3) years beyond the compliance date of any provision of these rules, provided the Director has reasonable cause to believe such a future compliance date is warranted. (4-5-00)

05. Tier II Operating Permits Establishing a Facility Emissions Cap. The owner or operator of any stationary source or facility may request a Tier II operating permit establishing a Facility Emissions Cap (FEC) pursuant to Sections 175 through 181. ()

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, July 6, 2005 Vol. 05-7, pages 78 through 81. The agency received no public comments, and the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

The pending rule has been corrected at Subsection 003.55, definition of Intermittent Waters. The phrase “cubic feet per second” has been added before “cfs” for clarification purposes.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the July 6, 2005, Idaho Administrative Bulletin, Vol. 05-7, pages 78 through 81.

IDAHO CODE SECTION 39-107D STATEMENT: The changes in definitions and use designations are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ’s programs and activities, visit DEQ’s web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Don Essig at don.essig@deq.idaho.gov, (208)373-0119.

DATED this 2nd day of November, 2005.

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DEPARTMENT OF ENVIRONMENTAL QUALITY

Water Quality Standards and Wastewater Treatment Requirements

Docket No. 58-0102-0501

PENDING RULE

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The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, July 22, 2005.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: In this rulemaking, the Department of Environmental Quality (DEQ) proposes to remove the NONE designation for aquatic life for water body units B-23, B-24, and B-25 (Subsection 160.02), parts of Soda Creek tributary to the Bear River. This will leave these water bodies as undesignated and protected for a default use of cold water aquatic life. This action is taken to be consistent with the discovery of aquatic life in Soda Creek which resulted in the withdrawal of a Use Attainability Analysis (UAA) on which the designation of NONE was based. In addition, DEQ proposes the following revisions to Section 003 (Definitions):

- 1) Add a definition for Zone of Initial Dilution for use in mixing zone analysis; and
- 2) Revise the definitions of Ephemeral Waters and Intermittent Waters to clarify that natural stream flows are the basis for such classifications.

Those with NPDES permits, particularly dischargers of wastewater to Soda Creek, or members of the public using Soda Creek for fishing, and those concerned with the use of small streams may be interested in participating in this rulemaking by commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the

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Board of Environmental Quality in October 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: The proposed changes in definitions and use designations are not broader scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, April 6, 2005, Vol. 05-4, page 19.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Don Essig at (208) 373-0119 or dessig@deq.idaho.gov.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before August 5, 2005.

Dated this 3rd day of June, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

003. DEFINITIONS.

For the purpose of the rules contained in IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," the following definitions apply: (4-5-00)

No changes are being made to Subsections 003.01 through 003.37.

38. Ephemeral Waters. A stream, reach, or water body that flows naturally only in direct response to precipitation in the immediate watershed and whose channel is at all times above the water table. (4-5-00)(____)

No changes are being made to Subsections 003.39 through 003.54.

55. Intermittent Waters. A stream, reach, or water body which naturally has a period

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of zero (0) flow for at least one (1) week during most years. Where flow records are available, a stream with a 7Q2 hydrologically-based unregulated flow of less than one-tenth (0.1) cubic feet per second (cfs) is considered intermittent. Streams with natural perennial pools containing significant aquatic life uses are not intermittent. (4-5-00)()

No changes are being made to Subsections 003.56 through 003.137.

138. Zone of Initial Dilution (ZID). An area within a Department authorized mixing zone where acute criteria may be exceeded. This area should be as small as practicable and assure that drifting organisms are not exposed to acute concentrations for more than one (1) hour more than once in three (3) years. The actual size of the ZID will be determined by the Department for a discharge on a case-by-case basis, taking into consideration mixing zone modeling and associated size recommendations and any other pertinent chemical, physical, and biological data available. ()

(BREAK IN CONTINUITY OF SECTIONS)

160. BEAR RIVER BASIN.

Surface waters found within the Bear River basin total six (6) subbasins and are designated as follows: (4-5-00)

No changes are being made to Subsection 160.01.

02. Bear Lake Subbasin. The Bear Lake Subbasin, HUC 16010201, is comprised of twenty-five (25) water body units.

| Unit | Waters | Aquatic Life | Recreation | Other |
|------|--|--------------|------------|-------|
| B-1 | Alexander Reservoir (Bear River) | COLD SS | PCR | |
| B-2 | Bear River -railroad bridge (T14N, R45E, Sec. 21) to Alexander Reservoir | COLD SS | PCR | |
| B-3 | Bailey Creek - source to mouth | COLD SS | SCR | |
| B-4 | Eightmile Creek - source to mouth | COLD SS | SCR | |
| B-5 | Pearl Creek - source to mouth | COLD SS | SCR | |
| B-6 | Stauffer Creek - source to mouth | COLD SS | SCR | |

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| Unit | Waters | Aquatic Life | Recreation | Other |
|------|--|-----------------|------------|------------|
| B-7 | Skinner Creek - source to mouth | COLD SS | SCR | |
| B-8 | Co-op Creek - source to mouth | COLD SS | SCR | |
| B-9 | Ovid Creek - confluence of North and Mill Creek to mouth | | | |
| B-10 | North Creek - source to mouth | COLD SS | PCR | |
| B-11 | Mill Creek - source to mouth | COLD SS | PCR | |
| B-12 | Bear Lake Outlet - Lifton Station to Bear River | COLD SS | PCR | DWS SRW |
| B-13 | Paris Creek - source to mouth | COLD SS | PCR | |
| B-14 | Bloomington Creek - source to mouth | COLD SS | PCR | DWS SRW |
| B-15 | Spring Creek - source to mouth | | | |
| B-16 | Little and St. Charles Creeks - source to Bear Lake | COLD SS | PCR | SRW |
| B-17 | Dry Canyon Creek - source to mouth | | | |
| B-18 | Bear Lake | COLD SS | PCR | DWS SRW |
| B-19 | Fish Haven Creek - source to Bear Lake | COLD SS | PCR | SRW |
| B-20 | Montpelier Creek - source to mouth | | | |
| B-21 | Snowslide Creek - source to mouth | COLD SS | SCR | |
| B-22 | Georgetown Creek - source to mouth | COLD SS | PCR | DWS SRW |
| B-23 | Soda Creek - Soda Creek Reservoir Dam to Alexander Reservoir | NONE | SCR | |
| B-24 | Soda Creek Reservoir | NONE | SCR | |
| B-25 | Soda Creek - source to Soda Creek Reservoir | NONE | SCR | |

(5-3-03)()

No changes are being made to Subsections 160.03 through 160.06.

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58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0502

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, July 6, 2005 Vol. 05-7, pages 82 through 92. The agency received no public comments, and the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: The changes in bacteria criteria and treatment requirements are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this pending rule, contact Don Essig at don.essig@deq.idaho.gov, (208)373-0119.

DATED this 2nd day of November, 2005.

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DEPARTMENT OF ENVIRONMENTAL QUALITY

Water Quality Standards and Wastewater Treatment Requirements

Docket No. 58-0102-0502

PENDING RULE

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, July 22, 2005.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: In this rulemaking, the Department of Environmental Quality (DEQ) proposes to clarify and consolidate language in Sections 080 and 251 regarding E. coli criteria designed to protect recreational use of Idaho waters. To maintain internal consistency, DEQ is also revising language in Section 420 to be consistent with the changes in Section 251. The changes make it clear that five (5) samples of E. coli are needed to judge compliance with the surface water quality standards, and allow greater flexibility in obtaining the requisite five (5) samples in thirty (30) days. These changes are being made to clarify Idaho's intentions with regard to use of data from a single water sample measured for E. coli, as allowed by EPA guidance on bacteria criteria, and provide more flexibility in monitoring frequency. This change is necessary to avoid possible misinterpretation of rules regarding application of ambient bacteria criteria and wastewater disinfection requirements that could result in unnecessarily stringent effluent limits and bacteria load reductions. In this rulemaking, DEQ also proposes to add the standard rule sections, and delete unnecessary rule sections, for conformance with IDAPA 44.01.01, "Rules of the Administrative Rules Coordinator," and for consistency with other DEQ administrative rules.

Publicly owned treatment works (POTWs) and recreational users of Idaho's surface waters may be interested in participating in this rulemaking by commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: The proposed changes in bacteria criteria and treatment requirements are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

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IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, April 6, 2005, Vol. 05-4, page 20.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Don Essig at (208) 373-0119 or dessig@deq.idaho.gov.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before August 5, 2005.

Dated this 3rd day of June, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

~~000. (RESERVED).~~

~~001000.~~LEGAL AUTHORITY.

Pursuant to Sections 39-105 and 39-3601 et seq., Idaho Code, the Director is directed to formulate and recommend to the Board, such rules and regulations and standards as may be necessary to deal with the problems related to personal health and water pollution. The Director is further charged with the supervision and administration of a system to safeguard the quality of the waters of the state including the enforcement of standards relating to the discharge of effluent into the waters of the state. Authority to adopt rules, regulations and standards as are necessary and feasible to protect the environment and health of the citizens of the state is vested in the Board pursuant to Section 39-107, Idaho Code. (3-20-97)

~~002001.~~TITLE AND SCOPE.

01. Title. These rules shall be cited as Rules of the Department of Environmental Quality, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements". (4-5-00)

02. Scope. These rules designate uses which are to be protected in and of the waters of the state and establish standards of water quality protective of those uses. Restrictions are placed on the discharge of wastewaters and on human activities which may adversely affect public health

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and water quality in the waters of the state. In addition, unique and outstanding waters of the state are recognized. These rules do not provide any legal basis for an additional permit system, nor can they be construed as granting to the Department any authority not identified in the Idaho Code.

(4-2-03)

002. WRITTEN INTERPRETATIONS.

As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. ()

003. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality".

(3-15-02)

004. INCORPORATION BY REFERENCE.

Codes, standards and regulations may be incorporated by reference in these rules pursuant to Section 67-5229, Idaho Code. Such incorporation by reference shall constitute full adoption by reference, including any notes or appendices therein, unless expressly provided otherwise in these rules. Copies of the codes, standards or regulations adopted by reference throughout these rules are available in the following locations: (8-24-94)

01. Department. Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255; (4-5-00)

02. Law Library. State Law Library, 451 W. State Street, Boise, Idaho 83720. (7-1-93)

03. Federal Documents. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. <http://www.gpoaccess.gov/index.html>. (8-24-94)()

005. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8 a.m. to 5 p.m. Monday through Friday. ()

006. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 3, Title 9, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 9-342A, Idaho Code, and the Rules of the Department of Environmental Quality, IDAPA 58.01.21, "Use and Disclosure of Records in the Possession of the Department of Environmental Quality".

(4-5-00)

007. -- 009. (RESERVED).

010. DEFINITIONS.

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PENDING RULE

For the purpose of the rules contained in IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," the following definitions apply: (4-5-00)

No changes are being made to Subsections 010.01 through 010.90.

91. Public Swimming Beaches. Areas indicated by features such as signs, swimming docks, diving boards, slides, or the like, boater exclusion zones, map legends, collection of a fee for beach use, or any other unambiguous invitation to public swimming. Privately owned swimming docks or the like which are not open to the general public are not included in this definition. ()

942. Public Wastewater System or Wastewater System. For purposes of Sections 403 through 405, a public wastewater system means those systems, including collection systems and treatment systems, that are owned by a city, county, state or federal unit of government, a non profit corporation, district, association, political subdivision or other public entity, or that generate or collect two thousand five hundred (2,500) or more gallons a day; or that have been constructed in whole or in part with public funds. This does not include any wastewater treatment system operated and maintained exclusively by a single family residence or any wastewater system consisting solely of a gravity flow, non-mechanical septic tank and subsurface treatment and distribution system, any animal waste system used for agricultural purposes that have been constructed in part or whole by public funds, or industrial wastewater systems under private ownership. (4-6-05)

923. Receiving Waters. Those waters which receive pollutants from point or nonpoint sources. (7-1-93)

934. Recharge. The process of adding water to the zone of saturation. (7-1-93)

945. Recharge Water. Water that is specifically utilized for the purpose of adding water to the zone of saturation. (7-1-93)

956. Reference Stream or Condition. A water body which represents the minimum conditions necessary to fully support the applicable designated beneficial uses as further specified in these rules, or natural conditions with few impacts from human activities and which are representative of the highest level of support attainable in the basin. In highly mineralized areas or in the absence of such reference streams or water bodies, the Director, in consultation with the basin advisory group and the technical advisors to it, may define appropriate hypothetical reference conditions or may use monitoring data specific to the site in question to determine conditions in which the beneficial uses are fully supported. (3-20-97)

967. Release. Any unauthorized spilling, leaking, emitting, discharging, escaping, leaching, or disposing into soil, ground water, or surface water. (8-24-94)

978. Resident Species. Those species that commonly occur in a site including those that occur only seasonally or intermittently. This includes the species, genera, families, orders, classes, and phyla that: (8-24-94)

a. Are usually present at the site; (8-24-94)

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- b. Are present only seasonally due to migration; (8-24-94)
- c. Are present intermittently because they periodically return or extend their ranges into the site; (8-24-94)
- d. Were present at the site in the past but are not currently due to degraded conditions, and are expected to be present at the site when conditions improve; and (8-24-94)
- e. Are present in nearby bodies of water but are not currently present at the site due to degraded conditions, and are expected to be present at the site when conditions improve. (8-24-94)

989. Responsible Charge (RC). For purposes of Sections 403 through 413, responsible charge means, active, daily on-site and/or on-call responsibility for the performance of operations or active, on-going, on-site and/or on-call direction of employees and assistants. (4-2-03)

99100. Responsible Charge Operator. For purposes of Sections 403 through 405, a responsible charge operator is an operator licensed at a class equal to or greater than the classification of the system and who has been designated by the system owner to have direct supervision of and responsibility for the performance of operations of a specified wastewater treatment system(s) or wastewater collection system(s) and the direction of personnel employed or retained at the same system. The responsible charge operator has an active daily on-site and/or on-call presence at the specified facility. (4-6-05)

1001. Responsible Persons in Charge. Any person who: (8-24-94)

- a. By any acts or omissions, caused, contributed to or exacerbated an unauthorized release of hazardous materials; (8-24-94)
- b. Owns or owned the facility from which the unauthorized release occurred and the current owner of the property where the facility is or was located; or (8-24-94)
- c. Presently or who was at any time during an unauthorized release in control of, or had responsibility for, the daily operation of the facility from which an unauthorized release occurred. (8-24-94)

1042. Saturated Zone. Zone or layer beneath the earth's surface in which all of the pore spaces of rock or soil are filled with water. (7-1-93)

1023. Secondary Treatment. Processes or methods for the supplemental treatment of wastewater, usually following primary treatment, to affect additional improvement in the quality of the treated wastes by biological means of various types which are designed to remove or modify organic matter. (7-1-93)

1034. Seven Day Mean. The average of the daily mean values calculated over a period of seven (7) consecutive days. (3-20-97)

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1045. Sewage. The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (8-24-94)

1056. Short-Term or Temporary Activity. An activity which is limited in scope and is expected to have only minimal impact on water quality as determined by the Director. Short-term or temporary activities include, but are not limited to, those activities described in Subsection 080.02. (3-20-97)

1067. Silviculture. Those activities associated with the regeneration, growing and harvesting of trees and timber including, but not limited to, disposal of logging slash, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, drainage of surface water which inhibits tree growth or logging operations, fertilization, application of herbicides or pesticides, all logging operations, and all forest management techniques employed to enhance the growth of stands of trees or timber. (3-20-97)

1078. Sludge. The semi-liquid mass produced by partial dewatering of potable or spent process waters or wastewater. (7-1-93)

1089. Special Resource Water. Those specific segments or bodies of water which are recognized as needing intensive protection: (7-1-93)

a. To preserve outstanding or unique characteristics; or (7-1-93)

b. To maintain current beneficial use. (7-1-93)

10910. Specialized Best Management Practices. Those practices designed with consideration of geology, land type, soil type, erosion hazard, climate and cumulative effects in order to fully protect the beneficial uses of water, and to prevent or reduce the pollution generated by nonpoint sources. (3-3-87)

1101. State. The state of Idaho. (7-1-93)

1142. State Water Quality Management Plan. The state management plan developed and updated by the Department in accordance with Sections 205, 208, and 303 of the Clean Water Act. (3-20-97)

1123. Steady-State Model. A fate and transport model that uses constant values of input variables to predict constant values of receiving water quality concentrations. (8-24-94)

1134. Substitute Responsible Charge Operator. A public wastewater operator holding a valid license at a class equal to or greater than the public wastewater system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. (4-6-05)

1145. Subsurface Disposal. Disposal of effluent below ground surface, including, but not limited to, drainfields or sewage beds. (7-1-93)

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1156. Suspended Sediment. Organic and inorganic particulate matter which has been removed from its site of origin and measured while suspended in surface water. (7-1-93)

1167. Technology-Based Effluent Limitation. Treatment requirements under Section 301(b) of the Clean Water Act that represent the minimum level of control that must be imposed in a permit issued under Section 402 of the Clean Water Act. (8-24-94)

1178. Total Maximum Daily Load (TMDL). The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. (8-24-94)

1189. Toxicity Test. A procedure used to determine the toxicity of a chemical or an effluent using living organisms. A toxicity test measures the degree of response of an exposed test organism to a specific chemical or effluent. (8-24-94)

11920. Toxic Substance. Any substance, material or disease-causing agent, or a combination thereof, which after discharge to waters of the State and upon exposure, ingestion, inhalation or assimilation into any organism (including humans), either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, malignancy, genetic mutation, physiological abnormalities (including malfunctions in reproduction) or physical deformations in affected organisms or their offspring. Toxic substances include, but are not limited to, the one hundred twenty-six (126) priority pollutants identified by EPA pursuant to Section 307(a) of the federal Clean Water Act. (8-24-94)

1201. Treatment. A process or activity conducted for the purpose of removing pollutants from wastewater. (7-1-93)

1242. Treatment System. Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment by disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishing thereof and their appurtenances. A treatment system may also be known as a treatment facility. This definition does not apply to Sections 403 through 413. (4-2-03)

1223. Trihalomethane (THM). THM means one of the family of organic compounds named as derivatives of methane, wherein three (3) of the four (4) hydrogen atoms in the molecular structure of methane are substituted by one (1) of the chemical elements chlorine, bromine or iodine. (7-1-93)

1234. Twenty-Four Hour Average. The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of twenty-four (24) consecutive hours. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the twenty-four (24)-hour period may be needed to obtain a more representative mean.

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(3-20-97)

1245. Unique Ecological Significance. The attribute of any stream or water body which is inhabited or supports an endangered or threatened species of plant or animal or a species of special concern identified by the Idaho Department of Fish and Game, which provides anadromous fish passage, or which provides spawning or rearing habitat for anadromous or desirable species of lake dwelling fishes. (8-24-94)

1256. User. Any person served by a public wastewater system. (4-2-03)

1267. Wasteload Allocation (WLA). The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. (8-24-94)

1278. Wastewater. Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present. (7-1-93)

1289. Wastewater Collection System Operator. The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater collection system in order to safeguard the public health and environment. (4-2-03)

12930. Wastewater Treatment Operator. The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater treatment system in order to safeguard the public health and environment. (4-2-03)

1301. Water Body Unit. Includes all named and unnamed tributaries within a drainage and is considered a single unit unless designated otherwise. (4-5-00)

1342. Water Pollution. Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. (8-24-94)

1323. Water Quality-Based Effluent Limitation. An effluent limitation that refers to specific levels of water quality that are expected to render a body of water suitable for its designated or existing beneficial uses. (8-24-94)

1334. Water Quality Limited Water Body. After monitoring, evaluation of required pollution controls, and consultation with the appropriate basin and watershed advisory groups, a water body identified by the Department, which does not meet applicable water quality standards, and/or is not expected to meet applicable water quality standards after the application of required pollution controls. A water body identified as water quality limited shall require the development of a TMDL or other equivalent process in accordance with Section 303 of the Clean Water Act and Sections 39-3601 et seq., Idaho Code. (3-20-97)

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1345. Waters And Waters Of The State. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (7-1-93)

1356. Watershed. The land area from which water flows into a stream or other body of water which drains the area. (3-20-97)

1367. Watershed Advisory Group. An advisory group appointed by the Director, with the advice of the appropriate Basin Advisory Group, which will recommend to the Department those specific actions needed to control point and nonpoint sources of pollution affecting water quality limited water bodies within the watershed. Members of each watershed advisory group shall be representative of the industries and interests affected by the management of that watershed, along with representatives of local government and the land managing or regulatory agencies with an interest in the management of that watershed and the quality of the water bodies within it. (3-20-97)

1378. Whole-Effluent Toxicity. The aggregate toxic effect of an effluent measured directly with a toxicity test. (8-24-94)

~~004011.~~ -- 049.(RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

080. VIOLATION OF WATER QUALITY STANDARDS.

01. Discharges Which Result in Water Quality Standards Violation. No pollutant shall be discharged from a single source or in combination with pollutants discharged from other sources in concentrations or in a manner that: (7-1-93)

a. Will or can be expected to result in violation of the water quality standards applicable to the receiving water body or downstream waters; or (7-1-93)

b. Will injure designated or existing beneficial uses; or (8-24-94)

c. Is not authorized by the appropriate authorizing agency for those discharges that require authorization. (8-24-94)

02. Short Term Activity Exemption. The Department or the Board can authorize, with whatever conditions deemed necessary, short term activities even though such activities can result in a violation of these rules; (8-24-94)

a. No activity can be authorized by the provisions of Subsection 080.02 unless: (7-1-93)

i. The activity is essential to the protection or promotion of public interest; (7-1-93)

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- ii. No permanent or long term injury of beneficial uses is likely as a result of the activity. (7-1-93)
- b. Activities eligible for authorization by Subsection 080.02 include, but are not limited to: (7-1-93)
 - i. Wastewater treatment facility maintenance; (7-1-93)
 - ii. Fish eradication projects; (7-1-93)
 - iii. Mosquito abatement projects; (7-1-93)
 - iv. Algae and weed control projects; (7-1-93)
 - v. Dredge and fill activities; (3-20-97)
 - vi. Maintenance of existing structures; (3-20-97)
 - vii. Limited road and trail reconstruction; (3-20-97)
 - viii. Soil stabilization measures; (3-20-97)
 - ix. Habitat enhancement structures; and (3-20-97)
 - x. Activities which result in overall enhancement or maintenance of beneficial uses. (7-1-93)

~~**03. E. coli Standard Violation.** A single water sample exceeding an E.coli standard does not in itself constitute a violation of water quality standards, however, additional samples shall be taken for the purpose of comparing the results to the geometric mean criteria in Section 251 as follows:~~ (4-5-00)

~~**a.** Any discharger responsible for providing samples for E.coli shall take five (5) additional samples in accordance with Section 251.~~ (4-5-00)

~~**b.** The Department shall take five (5) additional samples in accordance with Section 251 for ambient E.coli samples unrelated to dischargers' monitoring responsibilities.~~ (4-5-00)

043. Temperature Exemption. Exceeding the temperature criteria in Section 250 will not be considered a water quality standard violation when the air temperature of a given day exceeds the ninetieth percentile of a yearly series of the maximum weekly maximum air temperature (MWMT) calculated over the historic record measured at the nearest weather reporting station. (3-15-02)

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(BREAK IN CONTINUITY OF SECTIONS)

251. SURFACE WATER QUALITY CRITERIA FOR RECREATION USE DESIGNATIONS.

01. ~~Primary Contact Recreation~~ E. Coli Bacteria. Waters designated for ~~primary contact~~ recreation are not to contain E.coli bacteria, ~~significant to the public health used as indicators of human pathogens~~, in concentrations exceeding: (4-5-00)()

a. ~~For areas within waters designated for primary contact recreation that are additionally specified as public swimming beaches, a single sample of two hundred thirty five (235) E. coli organisms per one hundred (100) ml. For the purpose of this subsection, "specified public swimming beaches" are considered to be indicated by features such as signs, swimming docks, diving boards, slides, or the like, boater exclusion zones, map legends, collection of a fee for beach use, or any other unambiguous invitation to public swimming. Privately owned swimming docks or the like which are not open to the general public are not included in this definition.~~ Geometric Mean Criterion. Waters designated for primary or secondary contact recreation are not to contain E. coli bacteria in concentrations exceeding a geometric mean of one hundred twenty-six (126) E. coli organisms per one hundred (100) ml based on a minimum of five (5) samples taken every three (3) to seven (7) days over a thirty (30) day period. (3-15-02)()

b. ~~For all other waters designated for primary contact recreation, a single sample of four hundred six (406) E.coli organisms per one hundred (100) ml; or~~ Use of Single Sample Values. A water sample exceeding the E. coli single sample maximums below indicates likely exceedance of the geometric mean criterion, but is not alone a violation of water quality standards. If a single sample exceeds the maximums set forth in Subsections 251.01.b.i., 251.01.b.ii., and 251.01.b.iii., then additional samples must be taken as specified in Subsection 251.01.c.: (3-15-02)()

i. For waters designated as secondary contact recreation, a single sample maximum of five hundred seventy-six (576) E. coli organisms per one hundred (100) ml; or ()

ii. For waters designated as primary contact recreation, a single sample maximum of four hundred six (406) E. coli organisms per one hundred (100) ml; or ()

iii. For areas within waters designated for primary contact recreation that are additionally specified as public swimming beaches, a single sample maximum of two hundred thirty-five (235) E. coli organisms per one hundred (100) ml. Single sample counts above this value should be used in considering beach closures. ()

c. ~~A geometric mean of one hundred twenty-six (126) E.coli organisms per one hundred (100) ml based on a minimum of five (5) samples taken every three (3) to five (5) days over a thirty (30) day period.~~ Additional Sampling. When a single sample maximum, as set forth in Subsections 251.01.b.i., 251.01.b.ii., and 251.01.b.iii., is exceeded, additional samples should be taken to assess compliance with the geometric mean E. coli criteria in Subsection 251.01.a. Sufficient additional samples should be taken by the Department to calculate a geometric mean in

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accordance with Subsection 251.01.a. This provision does not require additional ambient monitoring responsibilities for dischargers. (4-5-00)()

~~02. Secondary Contact Recreation. Waters designated for secondary contact recreation are not to contain E.coli bacteria significant to the public health in concentrations exceeding:~~ (4-5-00)

~~a. A single sample of five hundred seventy six (576) E.coli organisms per one hundred (100) ml; or~~ (4-5-00)

~~b. A geometric mean of one hundred twenty six (126) E.coli organisms per one hundred (100) ml based on a minimum of five (5) samples taken every three (3) to five (5) days over a thirty (30) day period.~~ (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

420. POINT SOURCE SEWAGE WASTEWATER DISCHARGE RESTRICTIONS.

All provisions and requirements of Sections 400, 401, and 402 are applicable to sewage wastewater treatment facilities and their discharges. (8-24-94)

01. General Treatment Requirements. Except as provided in Subsections 420.02 and 420.03, sewage wastewater discharges, except those from lagoon or trickling filter facilities, into surface waters of the state must have the following characteristics: (7-1-93)

a. BOD - the equivalent of eighty-five percent (85%) removal of the biochemical oxygen demand, but not more than a thirty (30) day average concentration of thirty (30) mg/l; and (7-1-93)

b. Suspended Solids - the equivalent of eighty-five percent (85%) removal of the suspended solids, but not more than a thirty (30) day average concentration of thirty (30) mg/l. (7-1-93)

02. Alternative Treatment Requirements. The following alternative treatment requirements are established to apply to facilities which provide at least sixty-five percent (65%) BOD removal using a trickling filter or lagoon as the principal treatment process, and which the Department determines cannot consistently achieve requirements of Subsections 420.01.a. and 420.01.b. (7-1-93)

a. Sewage wastewater discharges from facilities using trickling filters as the principal treatment process must have the following characteristics: (7-1-93)

i. BOD - not to exceed a thirty (30) day average concentration of forty-five (45) mg/l; and (7-1-93)

ii. Suspended Solids - at least sixty-five percent (65%) removal and not to exceed a

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thirty (30) day average concentration of forty-five (45) mg/l. (7-1-93)

b. Sewage wastewater discharges from facilities using lagoons as the principal treatment process must have the following characteristics: (7-1-93)

i. BOD - not to exceed a thirty (30) day average concentration of forty-five (45) mg/l; and (7-1-93)

ii. Suspended Solids - not to exceed a thirty (30) day average concentration of seventy (70) mg/l. (7-1-93)

03. Adjusted Treatment Requirements for Industrial Loading. The Department may proportionally adjust, on a case-by-case basis, the treatment requirements of Subsection 401.03 or 401.05 where industrial waste loadings contribute greater than ten percent (10%) of the design flow or loading into a publicly owned sewage treatment facility. (7-1-93)

04. Determining the Necessity for Disinfection of Sewage Wastewater Treatment Plant Effluent. (8-24-94)

a. Disinfection of sewage treatment plant effluent shall be required when discharged to a water body under the following conditions: (8-24-94)

i. The water body receiving the effluent flows through a significantly populated area or has a designated or existing beneficial use of primary contact recreation. (8-24-94)

ii. The water body receiving the effluent is a direct tributary to a water body that flows through a significantly populated area or has a designated or existing beneficial use of primary contact recreation and disinfection is necessary to protect public health. (8-24-94)

iii. Site-specific conditions warrant disinfection for the protection of public health. (8-24-94)

b. The need for disinfection of sewage wastewater treatment plant effluent where treatment consists of lagoons with at least thirty (30) day retention time shall be evaluated on a case-by-case basis. (8-24-94)

05. Disinfection Requirements for Sewage Wastewater Treatment Plant Effluent. When disinfection is determined to be required under Subsection 420.04, sewage wastewater treatment plant effluent must receive adequate disinfection by any disinfection process which satisfies the following applicable criteria, prior to discharge to any receiving water. (8-24-94)

a. E. coli concentrations in secondary treated effluent must not exceed a geometric mean of one hundred and twenty-six (126) colonies per one hundred (100) milliliters based on a minimum of five (5) samples taken every three (3) to ~~five~~ seven (57) days over a thirty-day (30) period. ~~A single sample must not exceed four hundred and six colonies per one hundred milliliters (406 colonies per 100 ml).~~ (3-15-02)(____)

i. The samples must be representative of all samples collected during the month; and

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(3-15-02)

- ii. Geometric mean computations must be calculated and recorded monthly.(3-15-02)

b. On an interim basis, pending the addition of secondary treatment, E. coli concentrations in primary effluent must not exceed a geometric mean of two hundred and fifty-two (252) colonies per one hundred (100) milliliters based on a minimum of five (5) samples taken every three (3) to ~~five~~ seven (57) days over a thirty-day (30) period. ~~A single sample must not exceed eight hundred and twelve colonies per one hundred milliliters (812 colonies per 100 ml).~~ (3-15-02)()

- i. The samples must be representative of all samples collected during the month; (3-15-02)

- ii. Geometric mean computations must be calculated and recorded monthly; and (3-15-02)

iii. This discharge bacteria level will not be permitted even on an interim basis where the bacteria receiving water quality standard is not being met. (3-15-02)

06. Chlorine Contact Tank Requirements. Chlorine contact tanks providing disinfection must be designed and operated so that: (7-1-93)

- a. Short circulating is minimized with thorough mixing of chlorine and waste flow; (7-1-93)

b. Floatable and settleable solids are removed without discharging unchlorinated effluent; and (7-1-93)

- c. Unit drains are not discharged into the treated wastewater outfall. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

853. -- ~~994~~999.(RESERVED).

~~995.~~ Section 995 has been moved and renumbered to Section 004.

~~996.~~ Section 996 has been moved and renumbered to Section 003.

~~997.~~ Section 997 has been moved and renumbered to Section 006.

~~998. INCLUSIVE GENDER AND NUMBER.~~

~~For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate.~~ (7-1-93)

~~999. SEVERABILITY.~~

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~~Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standard and Wastewater Treatment Requirements" are severable. If any rules, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter.~~

~~(7-1-93)~~

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0503

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 7, 2005, Vol. 05-9, pages 327 through 337. Public comments were received. The proposed rule has not been revised in response to comments. However, in Subsection 210.02, the factors for calculating hardness for cadmium have been revised to reflect the most recent information. Also, the acute conversion factor, which was inadvertently struck out in the proposed rule, has been retained. The remaining subsections have been adopted as proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 7, 2005 Idaho Administrative Bulletin, Vol. 05-9, pages 327 through 337.

IDAHO CODE SECTION 39-107D STATEMENT: The revisions included in this rule are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this pending rule, contact Don Essig at don.essig@deq.idaho.gov, (208)373-0119.

Dated this 16th day of November, 2005.

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Water Quality Standards and Wastewater Treatment Requirements**PENDING RULE**

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The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 23, 2005. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to bring Idaho's toxics criteria up to date with current science and recommendations of the U.S. Environmental Protection Agency (EPA). The Department of Environmental Quality (DEQ) proposes to revise the human health criteria (columns C1 & C2) in Section 210 to account for revised fish consumption rates and newer information in the Integrated Risk Information System (IRIS) database on health effects, and to adopt an Idaho specific cadmium aquatic life criterion based on recalculation using additional, more recent toxicity data that has become available since EPA's 2001 cadmium criteria recommendation. Development of the proposed cadmium criteria is discussed in a draft technical support document, "Cadmium Risks to Freshwater Life: Predicted low-effect values in ambient waters based upon laboratory and field studies," which is available at www.deq.idaho.gov/rules/water/58_0102_0503_proposed.cfm or by contacting Don Essig at (208)373-0119.

Everyone in Idaho who either discharges toxics listed in Section 210 to surface waters of Idaho, or those who recreate in or obtain their drinking water from surface waters of Idaho, may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

ENVIRONMENT, ENERGY & TECHNOLOGY

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Docket No. 58-0102-0503

Water Quality Standards and Wastewater Treatment Requirements**PENDING RULE**

IDAHO CODE SECTION 39-107D STATEMENT: The revisions included in this proposed rule are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, April 6, 2005, Vol. 05-4, page 21.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this proposed rule, contact Don Essig at (208) 373-0119, Don.Essig@deq.idaho.gov.

Anyone may submit written comments on the proposed rulemaking by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before October 7, 2005.

Dated this 3rd day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

210. Numeric Criteria For Toxic Substances For Waters Designated For Aquatic Life, Recreation, Or Domestic Water Supply Use.

01. Criteria for Toxic Substances. The criteria of Section 210 apply to surface waters of the state as follows. (5-3-03)

a. Columns B1, B2, and C2 of the following table apply to waters designated for aquatic life use. (5-3-03)

b. Column C2 of the following table applies to waters designated for recreation use. (5-3-03)

c. Column C1 of the following table applies to waters designated for domestic water supply use.

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| A | | B Aquatic life | | Human health for consumption of: | |
|-----------------------------|-------------------------|-------------------------------|-------------------------------|----------------------------------|-------------------------------|
| (Number) Compound | ^a CAS Number | ^b CMC (µg/L) B1 | ^b CCC (µg/L) B2 | Water & organisms (µg/L) C1 | Organisms only (µg/L) C2 |
| 1 Antimony | 7440360 | | | 5.6 4 _c | 640 4 _c |
| 2 Arsenic | 7440382 | 340 e | 150 e | 50 d | 50 d |
| 3 Beryllium | 7440417 | | | h | h |
| 4 Cadmium | 7440439 | 2 _{1.3} i | 4.0.6 i | h | h |
| 5a Chromium III | 16065831 | 570 i | 74 i | h | h |
| 5b Chromium VI | 18540299 | 16 e | 11 e | h | h |
| 6 Copper | 7440508 | 17 i | 11 i | | |
| 7 Lead | 7439921 | 65 i | 2.5 i | h | h |
| 8a Mercury | 7439976 | g | g | | |
| 8b Methylmercury | 22967926 | | | | 0.3 mg/kg p |
| 9 Nickel | 7440020 | 470 i | 52 i | 610 c | 4600 c |
| 10 Selenium | 7782492 | 20 f | 5 f | <u>170</u> h | <u>4200</u> h |
| 11 Silver | 7440224 | 3.4 i | | | |
| 12 Thallium | 7440280 | | | 4.70.24 c | 6.30.47 c |
| 13 Zinc | 7440666 | 120 i | 120 i | 7400 | 26000 |
| 14 Cyanide | 57125 | 22 j | 5.2 j | 700140 c | 220000140 c |
| 15 Asbestos | 1332214 | | | 7,000,000 fibers/L k | |
| 16 2, 3, 7, 8-TCDD Dioxin | 1746016 | | | 0.0000000 4305 l | 0.0000000 44051 l |
| 17 Acrolein | 107028 | | | 320190 | 780290 |
| 18 Acrylonitrile | 107131 | | | 0.05 91 cl | 0.6 625 cl |
| 19 Benzene | 71432 | | | 42.2 cl | 751 cl |
| 20 Bromoform | 75252 | | | 4.3 cl | 360140 cl |
| 21 Carbon Tetrachloride | 56235 | | | 0.2 53 cl | 4.41.6 cl |
| 22 Chlorobenzene | 108907 | | | 680130 c | 2401600 c |
| 23 Chlorodibromomethane | 124481 | | | 0.4 40 cl | 3413 cl |
| 24 Chloroethane | 75003 | | | | |
| 25 2-Chloroethylvinyl Ether | 110758 | | | | |
| 26 Chloroform | 67663 | | | 5.7 el | 470 el |

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| A | | B Aquatic life | | Human health for consumption of: | |
|-------------------------------|-------------------------|-------------------------------|-------------------------------|----------------------------------|-----------------------------|
| (Number) Compound | ^a CAS Number | ^b CMC (µg/L) B1 | ^b CCC (µg/L) B2 | Water & organisms (µg/L) C1 | Organisms only (µg/L) C2 |
| 27 Dichlorobromomethane | 75274 | | | 0.2755 cl | 2217 cl |
| 28 1,1-Dichloroethane | 75343 | | | | |
| 29 1,2-Dichloroethane | 107062 | | | 0.38 cl | 9937 cl |
| 30 1,1-Dichloroethylene | 75354 | | | 0.057330 el | 3.27100 el |
| 31 1,2-Dichloropropane | 78875 | | | 0.50 cl | 15 cl |
| 32 1,3-Dichloropropylene | 542756 | | | 40.34 e | 170021 e |
| 33 Ethylbenzene | 100414 | | | 3400530 c | 290002100 c |
| 34 Methyl Bromide | 74839 | | | 487 c | 40001500 c |
| 35 Methyl Chloride | 74873 | | | | |
| 36 Methylene Chloride | 75092 | | | 4.76 cl | 4600590 cl |
| 37 1,1,2,2-Tetrachloroethane | 79345 | | | 0.17 cl | 444.0 cl |
| 38 Tetrachloroethylene | 127184 | | | 0.869 l | 8.853.3 l |
| 39 Toluene | 108883 | | | 68001300 c | 20000015000 c |
| 40 1,2-Trans-Dichloroethylene | 156605 | | | 140 c | 10000 c |
| 41 1,1,1-Trichloroethane | 71556 | | | | |
| 42 1,1,2-Trichloroethane | 79005 | | | 0.659 cl | 4216 cl |
| 43 Trichloroethylene | 79016 | | | 2.75 l | 8430 l |
| 44 Vinyl Chloride | 75014 | | | 20.025 l | 5252.4 l |
| 45 2-Chlorophenol | 95578 | | | 81 c | 150 c |
| 46 2,4-Dichlorophenol | 120832 | | | 9377 c | 7290 c |
| 47 2,4-Dimethylphenol | 105679 | | | 380 c | 850 c |
| 48 2-Methyl-4,6-Dinitrophenol | 534521 | | | 13.4 | 765280 |
| 49 2,4-Dinitrophenol | 51285 | | | 7069 c | 4405300 c |
| 50 2-Nitrophenol | 88755 | | | | |
| 51 4-Nitrophenol | 100027 | | | | |
| 52 3-Methyl-4-Chlorophenol | 59507 | | | | |
| 53 Pentachlorophenol | 87865 | 20 m | 13 m | 0.287 cl | 8.23.0 cl |

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| A | | B Aquatic life | | Human health for consumption of: | |
|---------------------------------|-------------------------|-------------------------------|-------------------------------|-----------------------------------|-------------------------------|
| (Number) Compound | ^a CAS Number | ^b CMC (µg/L) B1 | ^b CCC (µg/L) B2 | Water & organisms (µg/L) C1 | Organisms only (µg/L) C2 |
| 54 Phenol | 108952 | | | 21000 c | 461 700000 c |
| 55 2,4,6-Trichlorophenol | 88062 | | | 2-1.4 cl | 6-52.4 cl |
| 56 Acenaphthene | 83329 | | | <u>670</u> c | <u>990</u> c |
| 57 Acenaphthylene | 208968 | | | | |
| 58 Anthracene | 120127 | | | 968 300 c | 444 0000 c |
| 59 Benzidine | 92875 | | | 0.000 420 <u>86</u> cl | 0.000 5420 cl |
| 60 Benzo(a)Anthracene | 56553 | | | 0.00 238 <u>cl</u> | 0.0 318 <u>cl</u> |
| 61 Benzo(a)Pyrene | 50328 | | | 0.00 238 <u>cl</u> | 0.0 318 <u>cl</u> |
| 62 Benzo(b)Fluoranthene | 205992 | | | 0.00 238 <u>cl</u> | 0.0 318 <u>cl</u> |
| 63 Benzo(ghi)Perylene | 191242 | | | | |
| 64 Benzo(k)Fluoranthene | 207089 | | | 0.00 238 <u>cl</u> | 0.0 318 <u>cl</u> |
| 65 Bis(2-Chloroethoxy) Methane | 111911 | | | | |
| 66 Bis(2-Chloroethyl)Ether | 111444 | | | 0.03 40 cl | 4-40.53 cl |
| 67 Bis(2-Chloroisopropyl) Ether | 108601 | | | 1400 c | 4706 5000 c |
| 68 Bis(2-Ethylhexyl) Phthalate | 117817 | | | 1. 82 cl | 5-92.2 cl |
| 69 4-Bromophenyl Phenyl Ether | 101553 | | | | |
| 70 Butylbenzyl Phthalate | 85687 | | | <u>1500</u> c | <u>1900</u> c |
| 71 2-Chloronaphthalene | 91587 | | | <u>1000</u> c | <u>1600</u> c |
| 72 4-Chlorophenyl Phenyl Ether | 7005723 | | | | |
| 73 Chrysene | 218019 | | | 0.00 238 <u>cl</u> | 0.0 318 <u>cl</u> |
| 74 Dibenzo (a,h) Anthracene | 53703 | | | 0.00 238 <u>cl</u> | 0.0 318 <u>cl</u> |
| 75 1,2-Dichlorobenzene | 95501 | | | 2700 <u>420</u> c | 1703 00 c |
| 76 1,3-Dichlorobenzene | 541731 | | | 400 <u>320</u> | 2600 <u>960</u> |
| 77 1,4-Dichlorobenzene | 106467 | | | 400 <u>63</u> | 2600 <u>190</u> |
| 78 3,3'-Dichlorobenzidine | 91941 | | | 0.0 421 cl | 0.0 7728 cl |
| 79 Diethyl Phthalate | 84662 | | | 231 <u>7000</u> c | 4204 <u>4000</u> c |
| 80 Dimethyl Phthalate | 131113 | | | 3432 <u>70000</u> | 2911 00000 |

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| A | | B Aquatic life | | Human health for consumption of: | |
|-------------------------------|-------------------------|-------------------------------|-------------------------------|----------------------------------|-----------------------------|
| (Number) Compound | ^a CAS Number | ^b CMC (µg/L) B1 | ^b CCC (µg/L) B2 | Water & organisms (µg/L) C1 | Organisms only (µg/L) C2 |
| 81 Di-n-Butyl Phthalate | 84742 | | | 27000 c | 12000 1500 c |
| 82 2,4-Dinitrotoluene | 121142 | | | 0.11 l | 9.13.4 l |
| 83 2,6-Dinitrotoluene | 606202 | | | | |
| 84 Di-n-Octyl Phthalate | 117840 | | | | |
| 85 1,2-Diphenylhydrazine | 122667 | | | 0.04036 cl | 0.5420 cl |
| 86 Fluoranthene | 206440 | | | 300 130 c | 370 140 c |
| 87 Fluorene | 86737 | | | 13100 c | 140 5300 c |
| 88 Hexachlorobenzene | 118741 | | | 0.0007528 cl | 0.0007729 cl |
| 89 Hexachlorobutadiene | 87683 | | | 0.44 cl | 50 18 cl |
| 90 Hexachloro-cyclopentadiene | 77474 | | | 240 e | 170 1100 e |
| 91 Hexachloroethane | 67721 | | | 1.94 cl | 8.93.3 cl |
| 92 Ideno (1,2,3-cd) Pyrene | 193395 | | | 0.00238 cl | 0.0318 cl |
| 93 Isophorone | 78591 | | | 8.435 cl | 600 960 cl |
| 94 Naphthalene | 91203 | | | | |
| 95 Nitrobenzene | 98953 | | | 17 c | 1900 690 c |
| 96 N-Nitrosodimethylamine | 62759 | | | 0.00069 cl | 8.13.0 cl |
| 97 N-Nitrosodi-n-Propylamine | 621647 | | | 0.0050 cl | 0.51 cl |
| 98 N-Nitrosodiphenylamine | 86306 | | | 5.03.3 cl | 46.0 cl |
| 99 Phenanthrene | 85018 | | | | |
| 100 Pyrene | 129000 | | | 960 830 c | 114 000 c |
| 101 1,2,4-Trichlorobenzene | 120821 | | | 35 | 70 |
| 102 Aldrin | 309002 | 3 | | 0.00013049 cl | 0.00014050 cl |
| 103 alpha-BHC | 319846 | | | 0.003926 cl | 0.013049 cl |
| 104 beta-BHC | 319857 | | | 0.014091 cl | 0.04617 cl |
| 105 gamma-BHC (Lindane) | 58899 | 2 | 0.08 | 0.0498 l | 0.06 31.8 l |
| 106 delta-BHC | 319868 | | | | |
| 107 Chlordane | 57749 | 2.4 | 0.0043 | 0.0005780 cl | 0.0005981 cl |

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| A | | B Aquatic life | | Human health for consumption of: | |
|---|-------------------------|-------------------------------|-------------------------------|----------------------------------|-----------------------------|
| (Number) Compound | ^a CAS Number | ^b CMC (µg/L) B1 | ^b CCC (µg/L) B2 | Water & organisms (µg/L) C1 | Organisms only (µg/L) C2 |
| 108 4,4'-DDT | 50293 | 1.1 | 0.001 | 0.0005922 cl | 0.0005922 cl |
| 109 4,4'-DDE | 72559 | | | 0.0005922 cl | 0.0005922 cl |
| 110 4,4'-DDD | 72548 | | | 0.0008331 cl | 0.0008431 cl |
| 111 Dieldrin | 60571 | 2.5 | 0.0019 | 0.00044052 cl | 0.00044054 cl |
| 112 alpha-Endosulfan | 959988 | 0.22 | 0.056 | 0.9362 c | 2.089 c |
| 113 beta-Endosulfan | 33213659 | 0.22 | 0.056 | 0.9362 c | 2.089 c |
| 114 Endosulfan Sulfate | 1031078 | | | 0.9362 c | 2.089 c |
| 115 Endrin | 72208 | 0.18 | 0.0023 | 0.76059 c | 0.84060 c |
| 116 Endrin Aldehyde | 7421934 | | | 0.7629 c | 0.8430 c |
| 117 Heptachlor | 76448 | 0.52 | 0.0038 | 0.00024079 cl | 0.00024079 cl |
| 118 Heptachlor Epoxide | 1024573 | 0.52 | 0.0038 | 0.0004039 cl | 0.00044039 cl |
| 119 Polychlorinated Biphenyls PCBs: | n | | 0.014 n | 0.00047064 clo | 0.00047064 clo |
| 120 Toxaphene | 8001352 | 0.73 | 0.0002 | 0.0007328 cl | 0.0007528 cl |
| 121 Chlorine | | 19 k | 11 k | | |
| <p>Note to table: Table values are from 57 FR 60910, December 22, 1992 (National Toxics Rule) except as noted.</p> <p>Table Footnotes</p> <p>a. Chemical Abstracts Service (CAS) registry numbers which provide a unique identification for each chemical.</p> <p>b. See Definitions, Section 003010 of these rules.</p> <p>c. This criterion has been revised to reflect The Environmental Protection Agency's q1* or RfD, as contained in the Integrated Risk Information System (IRIS) as of December 22, 1992 May 17, 2002. The fish tissue bioconcentration factor (BCF) from the 1980 Ambient Water Quality Criteria document was retained in each case.</p> <p>d. Inorganic form only. The criterion for arsenic is the MCL in effect as of April 5, 2000.</p> <p>e. Criteria for these metals are expressed as a function of the water effect ratio, WER, as defined in Subsection 210.03.c.iii. CMC = column B1 value X WER. CCC = column B2 value X WER.</p> <p>f. Criterion expressed as total recoverable (unfiltered) concentrations.</p> <p>g. No aquatic life criterion is adopted for inorganic mercury. However, the narrative criteria for toxics in Section 200 of these rules applies. The Department believes application of the human health criterion for methylmercury will be protective of aquatic life in most situations.</p> | | | | | |

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| A | | B Aquatic life | | Human health for consumption of: | |
|---|-------------------------|-----------------------------------|-----------------------------------|------------------------------------|---------------------------------|
| (Number) Compound | ^a CAS Number | ^b CMC (µg/L) B1 | ^b CCC (µg/L) B2 | Water & organisms (µg/L) C1 | Organisms only (µg/L) C2 |
| <p>h. No numeric human health criteria has been established for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the narrative criteria for toxics from Section 200 of these rules.</p> | | | | | |
| <p>i. Aquatic life criteria for these metals are expressed as a function of total hardness (mg/L as calcium carbonate), the pollutant's water effect ratio (WER) as defined in Subsection 210.03.c.iii and multiplied by an appropriate dissolved conversion factor as defined in Subsection 210.02. For comparative purposes only, the values displayed in this table are shown as dissolved metal and correspond to a total hardness of one hundred (100) mg/L and a water effect ratio of one (1.0).</p> | | | | | |
| <p>j. Criteria are expressed as weak acid dissociable (WAD) cyanide.</p> | | | | | |
| <p>k. Total chlorine residual concentrations.</p> | | | | | |
| <p>l. <u>EPA guidance allows states to choose a risk factor of 10⁻⁴ to 10⁻⁶. Idaho has chosen to base this criterion is based on carcinogenicity of 10⁻⁶ risk.</u></p> | | | | | |
| <p>m. Aquatic life criteria for pentachlorophenol are expressed as a function of pH, and are calculated as follows. Values displayed above in the table correspond to a pH of seven and eight tenths (7.8). CMC = exp(1.005(pH)-4.830) CCC = exp(1.005(pH)-5.290)</p> | | | | | |
| <p>n. PCBs are a class of chemicals which include Aroclors, 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825 and 12674112 respectively. The aquatic life criteria apply to this set of PCBs.</p> | | | | | |
| <p>o. This criterion applies to total PCBs, (e.g. the sum of all congener, isomer, or Aroclor analyses).</p> | | | | | |
| <p>p. This fish tissue residue criterion (TRC) for methylmercury is based on a human health reference dose (RfD) of 0.0001 mg/kg body weight-day; a relative source contribution (RSC) estimated to be 27% of the RfD; a human body weight (BW) of 70 kg (for adults); and a total fish consumption rate of 0.0175 kg/day for the general population, summed from trophic level (TL) breakdown of TL2 = 0.0038 kg fish/day + TL3 = 0.0080 kg fish/day + TL4 = 0.0057 kg fish/day. This is a criterion that is protective of the general population. A site-specific criterion or a criterion for a particular subpopulation may be calculated by using local or regional data, rather than the above default values, in the formula: TRC = [BW x {RfD - (RSCxRfD)}] / Σ TL. In waters inhabited by species listed as threatened or endangered under the Endangered Species Act or designated as their critical habitat, the Department will apply the human health fish tissue residue criterion for methylmercury to the highest trophic level available for sampling and analysis.</p> | | | | | |

(4-6-05)()

02. Factors for Calculating Hardness Dependent Metals Criteria. Hardness dependent metals criteria are calculated using values from the following table in the equations:

(5-3-03)

a. CMC=WER exp{mA[ln(hardness)]+bA} X Acute Conversion Factor. (5-3-03)

b. CCC=WER exp{mc[ln(hardness)]+bc} X Chronic Conversion Factor.

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| Metal | m_A | b_A | m_C | b_C | ^a Acute Conversion Factor | ^a Chronic Conversion Factor |
|----------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|--------------------------------------|--|
| Arsenic | b | b | b | b | 1.0 | 1.0 |
| Cadmium | 1.0166 0.8367 | -3.924 -3.560 | 0.7852 0.6247 | -3.490 -3.344 | 0.944 see footnote a | 0.909 |
| Chromium (III) | 0.819 | 3.7256 | 0.8190 | 0.6848 | 0.316 | 0.860 |
| Chromium (VI) | b | b | b | b | 0.982 | 0.962 |
| Copper | 0.9422 | -1.464 | 0.8545 | -1.465 | 0.960 | 0.960 |
| Lead | 1.273 | -1.460 | 1.273 | -4.705 | 0.791 | 0.791 |
| Mercury | b | b | b | b | 0.85 | 0.85 |
| Nickel | 0.846 | 2.255 | 0.8460 | 0.0584 | 0.998 | 0.997 |
| Silver | 1.72 | -6.52 | c | c | 0.85 | c |
| Zinc | 0.8473 | 0.884 | 0.8473 | 0.884 | 0.978 | 0.986 |

Note to table: The term "exp" represents the base e exponential function.

Footnotes to table:

a. Conversion factors (CF) are from "Stephan, C. E. 1995. Derivation of conversion factors for the calculation of dissolved freshwater aquatic life criteria for metals. U.S. Environmental Protection Agency, Environmental Research Laboratory – Duluth." The conversion factors for cadmium and lead are hardness-dependent and can be calculated for any hardness (see limitations in Subsection 210.03.b.i) using the following equations. For comparative purposes, the conversion factors for a total hardness of one hundred (100) mg/L are shown in the table.

Cadmium

Acute: $CF = 1.136672 - [(\ln \text{hardness})(0.041838)]$ NOTE: The cadmium acute criterion equation was derived from dissolved metals toxicity data and thus requires no conversion; this conversion factor may be used to back calculate an equivalent total recoverable concentration.

Chronic: $CF = 1.101672 - [(\ln \text{hardness})(0.041838)]$

Lead (Acute and Chronic): $CF = 1.46203 - [(\ln \text{hardness})(0.145712)]$

b. Not applicable

c. No chronic criteria are available for silver.

~~(4-6-05)~~()

03. Applicability. The criteria established in Section 210 are subject to the general rules of applicability in the same way and to the same extent as are the other numeric chemical criteria when applied to the same use classifications including mixing zones, and low flow design discharge conditions below which numeric standards can be exceeded in flowing waters. (5-3-03)

a. For all waters for which the Department has determined mixing zones to be applicable, the criteria apply at the appropriate locations specified within or at the boundary of the mixing zone(s) ~~of the mixing zones~~; otherwise the criteria apply through the waterbody including at the end of any discharge pipe, canal or other discharge point. ~~(5-3-03)~~()

b. Low flow design discharge conditions. Numeric chemical standards can only be exceeded in perennial streams ~~due to~~ permitted discharges outside any applicable mixing zone

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PENDING RULE

when flows are less than the following values:

| Aquatic Life | | Human Health | |
|--------------------------|-------------|----------------------------|--------------------|
| CMC ("acute" criteria) | 1Q10 or 1B3 | Non-carcinogens | 30Q5 |
| CCC ("chronic" criteria) | 7Q10 or 4B3 | Carcinogens | Harmonic mean flow |
| | | (5-3-03) (____) | |

i. Where "1Q10" is the lowest one-day flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

ii. Where "1B3" is biologically based and indicates an allowable exceedence of once every three (3) years. It may be determined by EPA's computerized method (DFLOW model); (5-3-03)

iii. Where "7Q10" is the lowest average seven (7) consecutive day low flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

iv. Where "4B3" is biologically based and indicates an allowable exceedence for four (4) consecutive days once every three (3) years. It may be determined by EPA's computerized method (DFLOW model); (5-3-03)

v. Where "30Q5" is the lowest average thirty (30) consecutive day low flow with an average recurrence frequency of once in five (5) years determined hydrologically; and (5-3-03)

vi. Where the harmonic mean flow is a long term mean flow value calculated by dividing the number of daily flows analyzed by the sum of the reciprocals of those daily flows. (5-3-03)

c. Application of metals criteria. (5-3-03)

i. For purposes of calculating aquatic life criteria for metals from the equations in Subsection 210.02, the minimum hardness allowed for use in those equations shall not be less than twenty-five (25) mg/l, as calcium carbonate, even if the actual ambient hardness is less than twenty-five (25) mg/l as calcium carbonate. The maximum hardness allowed for use in those equations shall not be greater than four hundred (400) mg/l, as calcium carbonate, except as specified in Subsections 210.03.c.ii. and 210.03.c.iii., even if the actual ambient hardness is greater than four hundred (400) mg/l as calcium carbonate. (4-6-05)

ii. The hardness values used for calculating aquatic life criteria for metals at design discharge conditions shall be representative of the ambient hardnesses for a receiving water that occur at the design discharge conditions given in Subsection 210.03.b. (5-3-03)

iii. Except as otherwise noted, the aquatic life criteria for metals (compounds #1 through #13 in the criteria table of Subsection 210.02) are expressed as dissolved metal concentrations. Unless otherwise specified by the Department, dissolved concentrations are considered to be concentrations recovered from a sample which has passed through a forty-five

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hundredths (0.45) micron filter. For the purposes of calculating aquatic life criteria for metals from the equations in footnotes e. and i. in the criteria table in Subsection 210.01, the water effect ratio is computed as a specific pollutant's acute or chronic toxicity values measured in water from the site covered by the standard, divided by the respective acute or chronic toxicity value in laboratory dilution water. The water-effect ratio shall be assigned a value of one (1.0), except where the Department assigns a different value that protects the designated uses of the water body from the toxic effects of the pollutant, and is derived from suitable tests on sampled water representative of conditions in the affected water body, consistent with the design discharge conditions established in Subsection 210.03.b. For purposes of calculating water effects ratios, the term acute toxicity value is the toxicity test results, such as the concentration lethal one-half (1/2) of the test organisms (i.e., LC50) after ninety-six (96) hours of exposure (e.g., fish toxicity tests) or the effect concentration to one-half of the test organisms, (i.e., EC50) after forty-eight (48) hours of exposure (e.g., daphnia toxicity tests). For purposes of calculating water effects ratios, the term chronic value is the result from appropriate hypothesis testing or regression analysis of measurements of growth, reproduction, or survival from life cycle, partial life cycle, or early life stage tests. The determination of acute and chronic values shall be according to current standard protocols (e.g., those published by the American Society for Testing and Materials (ASTM)) or other comparable methods. For calculation of criteria using site-specific values for both the hardness and the water effect ratio, the hardness used in the equations in Subsection 210.02 shall be as required in Subsection 210.03.c.ii. Water hardness shall be calculated from the measured calcium and magnesium ions present, and the ratio of calcium to magnesium shall be approximately the same in laboratory toxicity testing water as in the site water, or be similar to average ratios of laboratory waters used to derive the criteria. (4-6-05)

iv. Implementation Guidance for the Idaho Mercury Water Quality Criteria. (4-6-05)

(1) The "Implementation Guidance for the Idaho Mercury Water Quality Criteria" describes in detail suggested methods for discharge related monitoring requirements, calculation of reasonable potential to exceed (RPTE) water quality criteria in determining need for mercury effluent limits, and use of fish tissue mercury data in calculating mercury load reductions. This guidance, or its updates, will provide assistance to the Department and the public when implementing the methylmercury criterion. The "Implementation Guidance for the Idaho Mercury Water Quality Criteria" also provides basic background information on mercury in the environment, the novelty of a fish tissue criterion for water quality, the connection between human health and aquatic life protection, and the relation of environmental programs outside of Clean Water Act programs to reducing mercury contamination of the environment. The "Implementation Guidance for the Idaho Mercury Water Quality Criteria" is available at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, and www.deq.idaho.gov. (4-6-05)

(2) The implementation of a fish tissue criterion in NPDES permits and TMDLs requires a non-traditional approach, as the basic criterion is not a concentration in water. In applying the methylmercury fish tissue criterion in the context of NPDES effluent limits and TMDL load reductions, the Department will assume change in fish tissue concentrations of methylmercury are proportional to change in water body loading of total mercury. Reasonable potential to exceed (RPTE) the fish tissue criterion for existing NPDES sources will be based on measured fish tissue concentrations potentially affected by the discharge exceeding a specified threshold value, based on uncertainty due to measurement variability. This threshold value is also

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used for TMDL decisions. Because measured fish tissue concentrations do not reflect the effect of proposed new or increased discharge of mercury, RPTE in these cases will be based upon an estimated fish tissue methylmercury concentration, using projected changes in waterbody loading of total mercury and a proportional response in fish tissue mercury. For the above purposes, mercury will be measured in the skinless filets of sport fish using techniques capable of detecting tissue concentrations down to point zero five (0.05) mg/kg. Total mercury analysis may be used, but will be assumed to be all methylmercury for purposes of implementing the criterion. (4-6-05)

v. Frequency and duration for toxics criteria. Column B1 criteria are concentrations not to be exceeded for a one-hour average more than once in three (3) years. Column B2 criteria are concentrations not to be exceeded for a four-day average more than once in three (3) years.

()

04. National Pollutant Discharge Elimination System Permitting. For the purposes of NPDES permitting, interpretation and implementation of metals criteria listed in Subsection 210.02 should be governed by the following standards, that are hereby incorporated by reference, in addition to other scientifically defensible methods deemed appropriate by the Department; provided, however, any identified conversion factors within these documents are not incorporated by reference. Metals criteria conversion factors are identified in Subsection 210.02 of this rule.

(5-3-03)

a. “Guidance Document on Dissolved Criteria -- Expression of Aquatic Life Criteria,” EPA, October 1993.

(4-5-00)

b. “Guidance Document on Dynamic Modeling and Translators,” EPA, August 1993.

(4-5-00)

c. “Guidance Document on Clean Analytical Techniques and Monitoring,” EPA, October 1993.

(4-5-00)

d. “Interim Guidance on Determination and Use of Water-Effect Ratios for Metals,” EPA, February 1994.

(4-5-00)

05. Development of Toxic Substance Criteria.

(4-5-00)

a. Aquatic Life Communities Criteria. Numeric criteria for the protection of aquatic life uses not identified in these rules for toxic substances, may be derived by the Department from the following information:

(4-5-00)

i. Site-specific criteria developed pursuant to Section 275;

(4-5-00)

ii. Effluent biomonitoring, toxicity testing and whole-effluent toxicity determinations;

(4-5-00)

iii. The most recent recommended criteria defined in EPA's Aquatic Toxicity Information Retrieval (ACQUIRE) database. When using EPA recommended criteria to derive water quality criteria to protect aquatic life uses, the lowest observed effect concentrations (LOECs) shall be considered; or

(4-5-00)

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iv. Scientific studies including, but not limited to, instream benthic assessment or rapid bioassessment. (4-5-00)

b. Human Health Criteria. (4-5-00)

i. When numeric criteria for the protection of human health are not identified in these rules for toxic substances, quantifiable criteria may be derived by the Department from the most recent recommended criteria defined in EPA's Integrated Risk Information System (IRIS). When using EPA recommended criteria to derive water quality criteria to protect human health, a fish consumption rate of ~~six~~ seventeen point five (~~6~~17.5) grams/day, a water ingestion rate of two (2) liters/day and a cancer risk level of 10^{-6} shall be utilized. ~~(4-5-00)~~(____)

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0504

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 7, 2005, Vol. 05-9, pages 338 through 358. One public comment letter was received. The proposed rule has not been revised in response to the comments. However, changes have been made to Sections 070, 400 and 401 for the purpose of deleting or revising references to rule sections affected by this rulemaking. The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 7, 2005 Idaho Administrative Bulletin, Vol. 05-9, pages 338 through 358.

IDAHO CODE SECTION 39-107D STATEMENT: The revisions included in this rule are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this pending rule, contact Don Essig at don.essig@deq.idaho.gov, (208)373-0119.

Dated this 16th day of November, 2005.

Paula J. Wilson

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Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 21, 2005. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: Under proposed rule Docket No. 58-0116-0501, certain wastewater rule sections and definitions have been copied from IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," revised as necessary, and inserted into a new proposed rule chapter, IDAPA 58.01.16, "Wastewater Rules". This proposed rule docket (58-0102-0504) has been initiated for the purpose of deleting those sections and definitions that are either unnecessary to remain in rule or have been copied and moved to the proposed rule chapter (IDAPA 58.01.16). This rulemaking is necessary to prevent inconsistency and/or redundancy between DEQ rule chapters. As a result of these changes, DEQ proposes to change the Title of this rule chapter to "Water Quality Standards".

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: The revisions included in this proposed rule are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

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NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this proposed rule, contact Don Essig at (208) 373-0119 or Don.Essig@deq.idaho.gov.

Anyone may submit written comments on the proposed rulemaking by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before October 5, 2005.

Dated this 3rd day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

002. TITLE AND SCOPE.

01. Title. These rules shall be cited as Rules of the Department of Environmental Quality, IDAPA 58.01.02, "Water Quality Standards ~~and Wastewater Treatment Requirements~~".
(4-5-00)()

02. Scope. These rules designate uses which are to be protected in and of the waters of the state and establish standards of water quality protective of those uses. Restrictions are placed on the discharge of wastewaters and on human activities which may adversely affect public health and water quality in the waters of the state. In addition, unique and outstanding waters of the state are recognized. These rules do not provide any legal basis for an additional permit system, nor can they be construed as granting to the Department any authority not identified in the Idaho Code.
(4-2-03)

003. DEFINITIONS.

For the purpose of the rules contained in IDAPA 58.01.02, "Water Quality Standards ~~and Wastewater Treatment Requirements~~," the following definitions apply: (4-5-00)()

01. Acute. Involving a stimulus severe enough to rapidly induce a response; in aquatic toxicity tests, a response measuring lethality observed in ninety-six (96) hours or less is typically considered acute. When referring to human health, an acute effect is not always measured in terms of lethality.
(3-20-97)

02. Acute Criteria. Unless otherwise specified in these rules, the maximum instantaneous or one (1) hour average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from acute toxicity resulting from

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exposure to the toxic substance or effluent. Acute criteria will adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. The terms “acute criteria” and “criterion maximum concentration” (CMC) are equivalent. (3-15-02)

03. Acute Toxicity. The existence of mortality or injury to aquatic organisms resulting from a single or short-term (i.e., ninety-six (96) hours or less) exposure to a substance. As applied to toxicity tests, acute toxicity refers to the response of aquatic test organisms to a concentration of a toxic substance or effluent which results in a LC-50. (3-20-97)

04. Aquatic Species. Any plant or animal that lives at least part of its life in the water column or benthic portion of waters of the state. (8-24-94)

~~**05. Available.** Based on public wastewater system size, complexity, and variation in raw waste, a licensed wastewater operator must be on site, on call, or able to be contacted as needed to initiate the appropriate action for normal or emergency conditions in a timely manner. (4-6-05)~~

065. Background. The biological, chemical or physical condition of waters measured at a point immediately upstream (up-gradient) of the influence of an individual point or nonpoint source discharge. If several discharges to the water exist or if an adequate upstream point of measurement is absent, the department will determine where background conditions should be measured. (8-24-94)

076. Basin Advisory Group. No less than one advisory group named by the Director, in consultation with the designated agencies, for each of the state's six (6) major river basins which shall generally advise the Director on water quality objectives for each basin, work in a cooperative manner with the Director to achieve these objectives, and provide general coordination of the water quality programs of all public agencies pertinent to each basin. Each basin advisory group named by the Director shall reflect a balanced representation of the interests in the basin and shall, where appropriate, include representatives from each of the following: agriculture, mining, nonmunicipal point source discharge permittees, forest products, local government, livestock, Indian tribes (for areas within reservation boundaries), water-based recreation, and environmental interests. (3-20-97)

087. Beneficial Use. Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. (8-24-94)

098. Best Management Practice. A practice or combination of practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be the cost-effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals. (3-20-97)

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109. Bioaccumulation. The process by which a compound is taken up by, and accumulated in the tissues of an aquatic organism from the environment, both from water and through food. (8-24-94)

~~**11. Biochemical Oxygen Demand (BOD).** The measure of the amount of oxygen necessary to satisfy the biochemical oxidation requirements of organic materials at the time the sample is collected; unless otherwise specified, this term will mean the five (5) day BOD incubated at twenty (20) degrees C. (8-24-94)~~

120. Biological Monitoring or Biomonitoring. The use of a biological entity as a detector and its response as a measure to determine environmental conditions. Toxicity tests and biological surveys, including habitat monitoring, are common biomonitoring methods. (8-24-94)

131. Board. The Idaho Board of Environmental Quality. (7-1-93)

142. Chronic. Involving a stimulus that lingers or continues for a relatively long period of time, often one-tenth (.01) of the life span or more. Chronic should be considered a relative term depending on the life span of an organism. The measurement of a chronic effect can be reduced growth, reduced reproduction, etc., in addition to lethality. (8-24-94)

153. Chronic Criteria. Unless otherwise specified in these rules, the four (4) day average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from chronic toxicity resulting from exposure to the toxic substance or effluent. Chronic criteria will adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. The terms "chronic criteria" and "criterion continuous concentration" (CCC) are equivalent. (3-15-02)

164. Chronic Toxicity. The existence of mortality, injury, reduced growth, impaired reproduction, or any other adverse effect on aquatic organisms resulting from a long-term (i.e., one-tenth (0.1) or more of the organism's life span) exposure to a substance. As applied to toxicity tests, chronic toxicity refers to the response of aquatic organisms to a concentration of a toxic substance or effluent which results in an IC-25. (8-24-94)

~~**17. Collection System.** That portion of the wastewater system in which wastewater is received from the premises of the discharger and conveyed to the point of treatment through a series of lines, pipes, manholes, pumps/lift stations and other appurtenances. (4-6-05)~~

185. Compliance Schedule Or Schedule Of Compliance. A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard. (8-24-94)

196. Criterion Continuous Concentration (CCC). Unless otherwise specified in these rules, the four (4) day average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from chronic toxicity resulting from exposure to the toxic substance or effluent. The CCC will adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. The terms "criterion continuous concentration" and "chronic criteria" are equivalent. (3-15-02)

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2017. Criterion Maximum Concentration (CMC). Unless otherwise specified in these rules, the maximum instantaneous or one (1) hour average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from acute toxicity resulting from exposure to the toxic substance or effluent. The CMC will adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. The terms “criterion maximum concentration” and “acute criteria” are equivalent. (3-15-02)

218. Daily Mean. The average of at least two (2) appropriately spaced measurements, acceptable to the department, calculated over a period of one (1) day: (3-20-97)

a. Confidence bounds around the point estimate of the mean may be required to determine the sample size necessary to calculate a daily mean; (8-24-94)

b. If any measurement is greater or less than five-tenths (0.5) times the average, additional measurements over the one-day period may be needed to obtain a more representative average; (3-20-97)

c. In calculating the daily mean for dissolved oxygen, values used in the calculation shall not exceed the dissolved oxygen saturation value. If a measured value exceeds the dissolved oxygen saturation value, then the dissolved oxygen saturation value will be used in calculating the daily mean. (8-24-94)

2219. Deleterious Material. Any nontoxic substance which may cause the tainting of edible species of fish, taste and odors in drinking water supplies, or the reduction of the usability of water without causing physical injury to water users or aquatic and terrestrial organisms. (8-24-94)

230. Department. The Idaho Department of Environmental Quality. (7-1-93)

241. Design Flow. The critical flow used for steady-state wasteload allocation modeling. (8-24-94)

252. Designated Agency. The department of lands for timber harvest activities, oil and gas exploration and development, and mining activities; the soil conservation commission for grazing and agricultural activities; the transportation department for public road construction; the department of agriculture for aquaculture; and the Department’s division of environmental quality for all other activities. (3-20-97)

263. Designated Beneficial Use or Designated Use. Those beneficial uses assigned to identified waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, “Water Quality Standards and Wastewater Treatment Requirements,” Sections 110 through 160, whether or not the uses are being attained. (4-5-00)

274. Desirable Species. Species indigenous to the area or those introduced species identified as desirable by the Idaho Department of Fish and Game. (3-15-02)

285. Director. The Director of the Idaho Department of Environmental Quality or his authorized agent. (7-1-93)

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296. Discharge. When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (8-24-94)

~~**30. Disinfection.** A method of reducing the pathogenic or objectionable organisms by means of chemicals or other acceptable means. (7-1-93)~~

~~**327. Dissolved Oxygen (DO).** The measure of the amount of oxygen dissolved in the water, usually expressed in mg/l. (7-1-93)~~

~~**328. Dissolved Product.** Petroleum product constituents found in solution with water. (8-24-94)~~

~~**3329. Dynamic Model.** A computer simulation model that uses real or derived time series data to predict a time series of observed or derived receiving water concentrations. Dynamic modeling methods include continuous simulation, Monte Carlo simulations, lognormal probability modeling, or other similar statistical or deterministic techniques. (8-24-94)~~

~~**340. E. coli (Escherichia coli).** A common fecal and intestinal organism of the coliform group of bacteria found in warm-blooded animals. (4-5-00)~~

~~**351. Effluent.** Any wastewater discharged from a treatment facility. (7-1-93)~~

~~**362. Effluent Biomonitoring.** The measurement of the biological effects of effluents (e.g., toxicity, biostimulation, bioaccumulation, etc.). (8-24-94)~~

~~**373. EPA.** The United States Environmental Protection Agency. (7-1-93)~~

~~**384. Ephemeral Waters.** A stream, reach, or water body that flows only in direct response to precipitation in the immediate watershed and whose channel is at all times above the water table. (4-5-00)~~

~~**395. Existing Beneficial Use Or Existing Use.** Those beneficial uses actually attained in waters on or after November 28, 1975, whether or not they are designated for those waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements". (8-24-94)()~~

~~**4036. Facility.** As used in Section 850 only, any building, structure, installation, equipment, pipe or pipeline, well pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or aircraft, area, place or property from which an unauthorized release of hazardous materials has occurred. (8-24-94)~~

~~**41. Fecal Coliform.** The portion of the coliform group of bacteria present in the gut and feces of warm blooded animals, usually expressed as number of organisms/one hundred (100) ml of sample. (7-1-93)~~

~~**4237. Four Day Average.** The mean of the twenty-four (24) hour average values calculated over a period of ninety-six (96) consecutive hours. (3-20-97)~~

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438. Free Product. A petroleum product that is present as a nonaqueous phase liquid. Free product includes the presence of petroleum greater than one-tenth (0.1) inch as measured on the water surface for surface water or the water table for ground water. (7-1-93)

4439. Full Protection, Full Support, or Full Maintenance of Designated Beneficial Uses of Water. Compliance with those levels of water quality criteria listed in Sections 200, 210, 250, 251, 252, 253, and 275 (if applicable) or where no major biological group such as fish, macroinvertebrates, or algae has been modified by human activities significantly beyond the natural range of the reference streams or conditions approved by the Director in consultation with the appropriate basin advisory group. (3-15-02)

450. Geometric Mean. The geometric mean of “n” quantities is the “nth” root of the product of the quantities. (7-1-93)

461. Ground Water. Subsurface water comprising the zone of saturation. (8-24-94)

472. Harmonic Mean Flow. The number of daily flow measurements divided by the sum of the reciprocals of the flows (i.e., the reciprocal of the mean of reciprocals). (8-24-94)

483. Hazardous Material. A material or combination of materials which, when discharged in any quantity into state waters, presents a substantial present or potential hazard to human health, the public health, or the environment. Unless otherwise specified, published guides such as Quality Criteria for Water (1976) by EPA, Water Quality Criteria (Second Edition, 1963) by the state of California Water Quality Control Board, their subsequent revisions, and more recent research papers, regulations and guidelines will be used in identifying individual and specific materials and in evaluating the tolerances of the identified materials for the beneficial uses indicated. (7-1-93)

494. Hydrologic Unit Code (HUC). A unique eight (8) digit number identifying a subbasin. A subbasin is a United States Geological Survey cataloging unit comprised of water body units. (4-5-00)

5045. Hydrologically-Based Design Flow. A statistically derived receiving water design flow based on the selection and identification of an extreme value (e.g., 1Q10, 7Q10). The underlying assumption is that the design flow will occur X number of times in Y years, and limits the number of years in which one or more excursions below the design flow can occur. (8-24-94)

5146. Hypolimnion. The deepest zone in a thermally-stratified body of water. It is fairly uniform in temperature and lies beneath a zone of water which exhibits a rapid temperature drop with depth of at least one (1) degree C per meter. (3-20-97)

52. ~~Inhibition Concentration 25 (IC 25).~~ ~~A point estimate of the toxicant concentration that would cause a twenty five percent (25%) reduction in a non-lethal biological measurement of the test organisms, such as reproduction or growth. Determined using curve fitting with an assumption of a continuous dose response relationship. An IC 25 is approximately the analogue of NOEC.~~ (8-24-94)

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~~53. **Instantaneous Concentration.** A concentration of a substance measured at any moment (instant) in time.~~ (8-24-94)

547. Inter-Departmental Coordination. Consultation with those agencies responsible for enforcing or administering the practices listed as approved best management practices in Subsection 350.03. (7-1-93)

5548. Intermittent Waters. A stream, reach, or water body which has a period of zero (0) flow for at least one (1) week during most years. Where flow records are available, a stream with a 7Q2 hydrologically-based flow of less than one-tenth (0.1) cfs is considered intermittent. Streams with natural perennial pools containing significant aquatic life uses are not intermittent. (4-5-00)

~~56. **Land Application.** A process or activity involving application of wastewater, surface water, or semi-liquid material to the land surface for the purpose of disposal, pollutant removal, or ground water recharge.~~ (8-24-94)

5749. LC-50. The toxicant concentration killing fifty percent (50%) of exposed organisms at a specific time of observation (e.g., ninety-six (96) hours). (3-20-97)

~~58. **License.** A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code.~~ (4-6-05)

590. Load Allocation (LA). The portion of a receiving water's loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources. (8-24-94)

~~6051. Loading Capacity.~~ The greatest amount of pollutant loading that a water can receive without violating water quality standards. (8-24-94)

~~6452. Lower Water Quality.~~ A measurable adverse change in a chemical, physical, or biological parameter of water relevant to a beneficial use, and which can be expressed numerically. Measurable change is determined by a statistically significant difference between sample means using standard methods for analysis and statistical interpretation appropriate to the parameter. Statistical significance is defined as the ninety-five percent (95%) confidence limit when significance is not otherwise defined for the parameter in standard methods or practices. (3-20-97)

~~6253. Lowest Observed Effect Concentration (LOEC).~~ The lowest concentration of a toxicant or an effluent that results in observable adverse effects in the aquatic test population. (8-24-94)

~~6354. Man-Made Waterways.~~ Canals, flumes, ditches, and similar features, constructed for the purpose of water conveyance. (7-1-93)

~~6455. Maximum Weekly Maximum Temperature (MWMT).~~ The weekly maximum

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temperature (WMT) is the mean of daily maximum temperatures measured over a consecutive seven (7) day period. The MWMT is the single highest WMT that occurs during a given year.

(3-15-02)

656. Milligrams Per Liter (mg/l). Milligrams of solute per liter of solution, equivalent to parts per million, assuming unit density.

(7-1-93)

657. Mixing Zone. A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated.

(7-1-93)

658. National Pollutant Discharge Elimination System (NPDES). Point source permitting program established pursuant to Section 402 of the federal Clean Water Act.

(8-24-94)

659. Natural Background Conditions. No measurable change in the physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed.

(3-15-02)

690. Nephelometric Turbidity Units (NTU). A measure of turbidity based on a comparison of the intensity of the light scattered by the sample under defined conditions with the intensity of the light scattered by a standard reference suspension under the same conditions.

(8-24-94)

7061. Nonpoint Source Activities. Activities on a geographical area on which pollutants are deposited or dissolved or suspended in water applied to or incident on that area, the resultant mixture being discharged into the waters of the state. Nonpoint source activities on ORWs do not include issuance of water rights permits or licenses, allocation of water rights, operation of diversions, or impoundments. Nonpoint sources activities include, but are not limited to:

(3-20-97)

- a. Irrigated and nonirrigated lands used for: (7-1-93)
 - i. Grazing; (7-1-93)
 - ii. Crop production; (7-1-93)
 - iii. Silviculture; (7-1-93)
- b. Log storage or rafting; (7-1-93)
- c. Construction sites; (7-1-93)
- d. Recreation sites; (3-20-97)
- e. Septic tank disposal fields. (8-24-94)
- f. Mining; (3-20-97)

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- g. Runoff from storms or other weather related events; and (3-20-97)
- h. Other activities not subject to regulation under the federal national pollutant discharge elimination system. (3-20-97)

~~**71. No Observed Adverse Effect Level (NOAEL).** A threshold dose of a toxic substance or an effluent below which no adverse biological effects are observed, as identified from chronic or subchronic human epidemiology studies or animal exposure studies. (8-24-94)~~

~~**72. No Observed Effect Concentration (NOEC).** The highest concentration of a toxic substance or an effluent at which no adverse effects are observed on the aquatic test organisms. Determined using hypothesis testing with the assumption of a noncontinuous threshold model of the dose-response relationship. (8-24-94)~~

7362. Nuisance. Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. (7-1-93)

7463. Nutrients. The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (7-1-93)

7564. One Day Minimum. The lowest daily instantaneous value measured. (3-20-97)

765. One Hour Average. The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of one (1) hour. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the one-hour period may be needed to obtain a more representative mean. (3-20-97)

~~**77. Operating Personnel.** Any person who is employed, retained, or appointed to make system control or system integrity decisions about water quantity or water quality that may affect public health as part of the tasks conducted with the day-to-day operation and maintenance of a public wastewater system. (4-6-05)~~

7866. Operator. For purposes of Sections 851 and 852, any person presently or who was at any time during a release in control of, or having responsibility for, the daily operation of the petroleum storage tank (PST) system. (4-2-03)

7967. Outstanding Resource Water (ORW). A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been designated by the legislature and subsequently listed in this chapter. ORW constitutes an outstanding national or state resource that requires protection from point and nonpoint source activities that may lower water quality. (3-20-97)

8068. Outstanding Resource Water Mixing Zone. An area or volume of an ORW where pollutants are allowed to mix with the ORW receiving water at a location distinct from the sampling point where compliance with ORW quality standards is measured. An ORW mixing zone will be downstream from the discharge of a tributary or a segment immediately upstream

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which contains man caused pollutants as a result of nonpoint source activities occurring on that tributary or segment. As a result of the discharge, the mixing zone may not meet all water quality standards applicable to the ORW, but shall still be protected for existing beneficial uses. The Department, after consideration of input from interested parties, will determine the size, configuration and location of mixing zones which are necessary to meet the requirements of this chapter. (7-1-93)

8469. Owner. For purposes of Sections 851 and 852, any person who owns or owned a petroleum storage tank (PST) system any time during a release and the current owner of the property where the PST system is or was located. (4-2-03)

~~**82. Owner of Public Wastewater System.** For purposes of Sections 403 through 405, the person, company, corporation, district, association or other organizational entity which holds legal title to the public wastewater system, and who provides, or intends to provide wastewater service to system users and is ultimately responsible for the public wastewater system operation. (4-6-05)~~

8370. Person. An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (3-20-97)

8471. Petroleum Products. Products derived from petroleum through various refining processes. (7-1-93)

8572. Petroleum Storage Tank (PST) System. Any one (1) or combination of storage tanks or other containers, including pipes connected thereto, dispensing equipment, and other connected ancillary equipment, and stationary or mobile equipment, that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. (7-1-93)

8673. Point Source. Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (7-1-93)

874. Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities. (3-20-97)

~~**88. Potable Water.** A water which is free from impurities in such amounts that it is safe for human consumption without treatment. (7-1-93)~~

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~~89. **Primary Treatment.** Processes or methods that serve as the first stage treatment of wastewater, intended for removal of suspended and settleable solids by gravity sedimentation; provides no changes in dissolved and colloidal matter in the sewage or wastes flow. (7-1-93)~~

9075. Project Plans. Documents which describe actions to be taken under a proposed activity. These documents include environmental impact statements, environmental assessments, and other land use or resource management plans. (7-1-93)

~~91. **Public Wastewater System or Wastewater System.** For purposes of Sections 403 through 405, a public wastewater system means those systems, including collection systems and treatment systems, that are owned by a city, county, state or federal unit of government, a non profit corporation, district, association, political subdivision or other public entity, or that generate or collect two thousand five hundred (2,500) or more gallons a day; or that have been constructed in whole or in part with public funds. This does not include any wastewater treatment system operated and maintained exclusively by a single family residence or any wastewater system consisting solely of a gravity flow, non-mechanical septic tank and subsurface treatment and distribution system, any animal waste system used for agricultural purposes that have been constructed in part or whole by public funds, or industrial wastewater systems under private ownership. (4-6-05)~~

9276. Receiving Waters. Those waters which receive pollutants from point or nonpoint sources. (7-1-93)

~~93. **Recharge.** The process of adding water to the zone of saturation. (7-1-93)~~

~~94. **Recharge Water.** Water that is specifically utilized for the purpose of adding water to the zone of saturation. (7-1-93)~~

9577. Reference Stream or Condition. A water body which represents the minimum conditions necessary to fully support the applicable designated beneficial uses as further specified in these rules, or natural conditions with few impacts from human activities and which are representative of the highest level of support attainable in the basin. In highly mineralized areas or in the absence of such reference streams or water bodies, the Director, in consultation with the basin advisory group and the technical advisors to it, may define appropriate hypothetical reference conditions or may use monitoring data specific to the site in question to determine conditions in which the beneficial uses are fully supported. (3-20-97)

9678. Release. Any unauthorized spilling, leaking, emitting, discharging, escaping, leaching, or disposing into soil, ground water, or surface water. (8-24-94)

979. Resident Species. Those species that commonly occur in a site including those that occur only seasonally or intermittently. This includes the species, genera, families, orders, classes, and phyla that: (8-24-94)

a. Are usually present at the site; (8-24-94)

b. Are present only seasonally due to migration; (8-24-94)

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c. Are present intermittently because they periodically return or extend their ranges into the site; (8-24-94)

d. Were present at the site in the past but are not currently due to degraded conditions, and are expected to be present at the site when conditions improve; and (8-24-94)

e. Are present in nearby bodies of water but are not currently present at the site due to degraded conditions, and are expected to be present at the site when conditions improve. (8-24-94)

~~**98. Responsible Charge (RC).** For purposes of Sections 403 through 413, responsible charge means, active, daily on-site and/or on-call responsibility for the performance of operations or active, on-going, on-site and/or on-call direction of employees and assistants. (4-2-03)~~

~~**99. Responsible Charge Operator.** For purposes of Sections 403 through 405, a responsible charge operator is an operator licensed at a class equal to or greater than the classification of the system and who has been designated by the system owner to have direct supervision of and responsibility for the performance of operations of a specified wastewater treatment system(s) or wastewater collection system(s) and the direction of personnel employed or retained at the same system. The responsible charge operator has an active daily on-site and/or on-call presence at the specified facility. (4-6-05)~~

~~**100. Responsible Persons in Charge.** Any person who: (8-24-94)~~

a. By any acts or omissions, caused, contributed to or exacerbated an unauthorized release of hazardous materials; (8-24-94)

b. Owns or owned the facility from which the unauthorized release occurred and the current owner of the property where the facility is or was located; or (8-24-94)

c. Presently or who was at any time during an unauthorized release in control of, or had responsibility for, the daily operation of the facility from which an unauthorized release occurred. (8-24-94)

~~**101. Saturated Zone.** Zone or layer beneath the earth's surface in which all of the pore spaces of rock or soil are filled with water. (7-1-93)~~

~~**102. Secondary Treatment.** Processes or methods for the supplemental treatment of wastewater, usually following primary treatment, to affect additional improvement in the quality of the treated wastes by biological means of various types which are designed to remove or modify organic matter. (7-1-93)~~

~~**10381. Seven Day Mean.** The average of the daily mean values calculated over a period of seven (7) consecutive days. (3-20-97)~~

~~**10482. Sewage.** The water-carried human or animal waste from residences, buildings,~~

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industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (8-24-94)

~~10583~~. Short-Term or Temporary Activity. An activity which is limited in scope and is expected to have only minimal impact on water quality as determined by the Director. Short-term or temporary activities include, but are not limited to, those activities described in Subsection 080.02. (3-20-97)

~~10684~~. Silviculture. Those activities associated with the regeneration, growing and harvesting of trees and timber including, but not limited to, disposal of logging slash, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, drainage of surface water which inhibits tree growth or logging operations, fertilization, application of herbicides or pesticides, all logging operations, and all forest management techniques employed to enhance the growth of stands of trees or timber. (3-20-97)

~~10785~~. Sludge. The semi-liquid mass produced by partial dewatering of potable or spent process waters or wastewater. (7-1-93)

~~1086~~. Special Resource Water. Those specific segments or bodies of water which are recognized as needing intensive protection: (7-1-93)

a. To preserve outstanding or unique characteristics; or (7-1-93)

b. To maintain current beneficial use. (7-1-93)

~~10987~~. Specialized Best Management Practices. Those practices designed with consideration of geology, land type, soil type, erosion hazard, climate and cumulative effects in order to fully protect the beneficial uses of water, and to prevent or reduce the pollution generated by nonpoint sources. (3-3-87)

~~11088~~. State. The state of Idaho. (7-1-93)

~~11189~~. State Water Quality Management Plan. The state management plan developed and updated by the Department in accordance with Sections 205, 208, and 303 of the Clean Water Act. (3-20-97)

~~112. Steady-State Model.~~ *A fate and transport model that uses constant values of input variables to predict constant values of receiving water quality concentrations.* (8-24-94)

~~113. Substitute Responsible Charge Operator.~~ *A public wastewater operator holding a valid license at a class equal to or greater than the public wastewater system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible.* (4-6-05)

~~114. Subsurface Disposal.~~ *Disposal of effluent below ground surface, including, but not limited to, drainfields or sewage beds.* (7-1-93)

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~~4590~~. Suspended Sediment. Organic and inorganic particulate matter which has been removed from its site of origin and measured while suspended in surface water. (7-1-93)

~~4691~~. Technology-Based Effluent Limitation. Treatment requirements under Section 301(b) of the Clean Water Act that represent the minimum level of control that must be imposed in a permit issued under Section 402 of the Clean Water Act. (8-24-94)

~~4792~~. Total Maximum Daily Load (TMDL). The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. (8-24-94)

~~4893~~. Toxicity Test. A procedure used to determine the toxicity of a chemical or an effluent using living organisms. A toxicity test measures the degree of response of an exposed test organism to a specific chemical or effluent. (8-24-94)

~~494~~. Toxic Substance. Any substance, material or disease-causing agent, or a combination thereof, which after discharge to waters of the State and upon exposure, ingestion, inhalation or assimilation into any organism (including humans), either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, malignancy, genetic mutation, physiological abnormalities (including malfunctions in reproduction) or physical deformations in affected organisms or their offspring. Toxic substances include, but are not limited to, the one hundred twenty-six (126) priority pollutants identified by EPA pursuant to Section 307(a) of the federal Clean Water Act. (8-24-94)

~~4095~~. Treatment. A process or activity conducted for the purpose of removing pollutants from wastewater. (7-1-93)

~~4196~~. Treatment System. Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment by disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishing thereof and their appurtenances. A treatment system may also be known as a treatment facility. *This definition does not apply to Sections 403 through 413.* (4-2-03)(____)

~~422~~. Trihalomethane (THM). *THM means one of the family of organic compounds named as derivatives of methane, wherein three (3) of the four (4) hydrogen atoms in the molecular structure of methane are substituted by one (1) of the chemical elements chlorine, bromine or iodine.* (7-1-93)

~~4397~~. Twenty-Four Hour Average. The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of twenty-four (24) consecutive hours. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the twenty-four (24)-hour period may be needed to obtain a more representative mean. (3-20-97)

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~~12498~~. Unique Ecological Significance. The attribute of any stream or water body which is inhabited or supports an endangered or threatened species of plant or animal or a species of special concern identified by the Idaho Department of Fish and Game, which provides anadromous fish passage, or which provides spawning or rearing habitat for anadromous or desirable species of lake dwelling fishes. (8-24-94)

~~125. User.~~ *Any person served by a public wastewater system.* (4-2-03)

~~12699~~. Wasteload Allocation (WLA). The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. (8-24-94)

~~12700~~. Wastewater. Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present. (7-1-93)

~~128. Wastewater Collection System Operator.~~ *The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater collection system in order to safeguard the public health and environment.* (4-2-03)

~~129. Wastewater Treatment Operator.~~ *The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater treatment system in order to safeguard the public health and environment.* (4-2-03)

~~1301~~. Water Body Unit. Includes all named and unnamed tributaries within a drainage and is considered a single unit unless designated otherwise. (4-5-00)

~~13402~~. Water Pollution. Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. (8-24-94)

~~13203~~. Water Quality-Based Effluent Limitation. An effluent limitation that refers to specific levels of water quality that are expected to render a body of water suitable for its designated or existing beneficial uses. (8-24-94)

~~13304~~. Water Quality Limited Water Body. After monitoring, evaluation of required pollution controls, and consultation with the appropriate basin and watershed advisory groups, a water body identified by the Department, which does not meet applicable water quality standards, and/or is not expected to meet applicable water quality standards after the application of required pollution controls. A water body identified as water quality limited shall require the development of a TMDL or other equivalent process in accordance with Section 303 of the Clean Water Act and Sections 39-3601 et seq., Idaho Code. (3-20-97)

~~13405~~. Waters And Waters Of The State. All the accumulations of water, surface and

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underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (7-1-93)

13506. Watershed. The land area from which water flows into a stream or other body of water which drains the area. (3-20-97)

13607. Watershed Advisory Group. An advisory group appointed by the Director, with the advice of the appropriate Basin Advisory Group, which will recommend to the Department those specific actions needed to control point and nonpoint sources of pollution affecting water quality limited water bodies within the watershed. Members of each watershed advisory group shall be representative of the industries and interests affected by the management of that watershed, along with representatives of local government and the land managing or regulatory agencies with an interest in the management of that watershed and the quality of the water bodies within it. (3-20-97)

13708. Whole-Effluent Toxicity. The aggregate toxic effect of an effluent measured directly with a toxicity test. (8-24-94)

(BREAK IN CONTINUITY OF SECTIONS)

070. APPLICATION OF STANDARDS.

01. Multiple Criteria. In the application of the use designation, the most stringent criterion of a multiple criteria applies. (4-5-00)

02. Application of Standards to Nonpoint Source Activities. The application of water quality standards to nonpoint source activities shall be in accordance with Section 350. (7-1-93)

03. Application of Standards to Point Source Discharges. The application of water quality standards to point source discharges shall be in accordance with Sections 400 ~~through 402, 420 and 440~~ and 401. (7-1-93)(____)

04. Applicability of Gas Supersaturation Standard. The application of gas supersaturation standard shall be in accordance with Section 300. (4-5-00)

05. Mixing Zones. The application of water quality standards to mixing zones shall be in accordance with Section 060. (7-1-93)

06. Application of Standards to Intermittent Waters. Numeric water quality standards only apply to intermittent waters during optimum flow periods sufficient to support the uses for which the water body is designated. For recreation, optimum flow is equal to or greater than five (5) cubic feet per second (cfs). For aquatic life uses, optimum flow is equal to or greater than one (1) cfs. (3-30-01)

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07. Temperature Criteria. In the application of temperature criteria, the Director may, at his discretion, waive or raise the temperature criteria as they pertain to a specific water body. Any such determination shall be made consistent with 40 CFR 131.11 and shall be based on a finding that the designated aquatic life use is not an existing use in such water body or would be fully supported at a higher temperature criteria. For any determination, the Director shall, prior to making a determination, provide for public notice and comment on the proposed determination. For any such proposed determination, the Director shall prepare and make available to the public a technical support document addressing the proposed modification. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

400. RULES GOVERNING POINT SOURCE DISCHARGES.

01. Implementation Policy. (7-1-93)

a. As provided for in Subsection 080.01, and Sections 200, 210, 250, 251, 252, 253, 275, and 400 for point source discharges, failure to meet general or specific water quality criteria is a violation of the water quality standards. (4-5-00)

b. Except as noted in Section 400, no new point source can discharge pollutants, and no existing point source can increase its discharge of pollutants above the design capacity of its existing wastewater treatment facility, to any water designated as a special resource water or to a tributary of, or to the upstream segment of a special resource water: if pollutants significant to the designated beneficial uses can or will result in a reduction of the ambient water quality of the receiving special resource water as measured immediately below the applicable mixing zone. (8-24-94)

c. ~~For those point sources that normally require authorization, no~~ No unauthorized discharge from a point source shall occur to waters of the state. (8-24-94)(____)

02. Limitations to Point Source Restrictions. (7-1-93)

a. So long as a point source discharge or wastewater treatment facility is regulated by the terms and conditions of an authorization pursuant to Subsection 080.02, a Board order, decree or compliance schedule, or a valid NPDES permit issued by the EPA, ~~or is subject to the provisions of Subsection 401.05,~~ the discharge or facility will not be subject to additional restrictions or conditions based on Subsections 080.01, or 400.01.b. and Sections 200, 210, 250, 251, 252, and 253. (4-5-00)(____)

b. The restrictions set forth in Subsection 400.01.b. are modified as follows: New point sources can discharge, and existing point sources can increase its discharge above the design capacity of its existing wastewater treatment facility, resulting in increases in water temperatures and fluoride concentrations up to levels needed to protect designated beneficial uses in the Boise River between the bridge at Broadway Avenue and River Mile 50 (through Veteran's State Park). (4-5-00)

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03. Compliance Schedules for Water Quality-Based Effluent Limitations. Discharge permits for point sources may incorporate compliance schedules which allow a discharger to phase in, over time, compliance with water quality-based effluent limitations when new limitations are in the permit for the first time. (3-15-02)

04. Wetlands Used for Wastewater Treatment. (8-24-94)

a. Waters contained within wetlands intentionally created from non-wetland sites for the purpose of wastewater or stormwater treatment, and operated in compliance with NPDES permit conditions, shall not be subject to the application of general water quality-based or site-specific criteria and standards. (8-24-94)

b. Waters contained within wetlands intentionally created from non-wetland sites for the purpose of treatment of nonpoint sources of pollution, and operated in compliance with best management practices, shall not be subject to the application of general water quality-based or site specific criteria and standards. (8-24-94)

c. Discharges from treatment systems described in Sections 400.04.a. and 400.04.b. to waters of the state are subject to all applicable rules and requirements governing such discharges. (8-24-94)

05. Flow Tiered NPDES Permit Limitations. Discharge permits for point sources discharging to waters exhibiting unidirectional flow may incorporate tiered limitations for conventional and toxic constituents at the discretion of the department. (8-24-94)

401. POINT SOURCE WASTEWATER TREATMENT REQUIREMENTS.

~~**01. Appropriate Control Measures.** The Department, through approval or disapproval of plans for wastewater treatment and disposal facilities, the issuance of wastewater discharge permits, orders, compliance schedules, directives or any of the mechanisms at its disposal, will require persons to apply appropriate control measures necessary to achieve and maintain the water quality standards contained herein.~~ (7-1-93)

~~**02. Degree of Treatment.** The degree of wastewater treatment required to restore and maintain the standards of quality will be determined in each instance by the Department, based upon the following:~~ (7-1-93)

~~**a.** The uses which are made or desired of the receiving water;~~ (7-1-93)

~~**b.** The volume and nature of flow of the receiving water;~~ (7-1-93)

~~**c.** The quantity and quality of the wastewater to be treated; and~~ (7-1-93)

~~**d.** The presence or absence of other sources of water pollution on the same watershed, stream segment or aquifer.~~ (7-1-93)

03. Treatment Requirements. Unless more stringent limitations are necessary to meet

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the applicable requirements of Sections 200 through 300, or unless specific exemptions are made pursuant to Subsection 080.02 ~~or 401.05~~, wastewaters discharged into surface waters of the state must have the following characteristics: (7-1-93)(____)

~~a~~01. Temperature. The wastewater must not affect the receiving water outside the mixing zone so that:

(7-1-93)

~~i~~**a.** The temperature of the receiving water or of downstream waters will interfere with designated beneficial uses. (7-1-93)

~~ii~~**b.** Daily and seasonal temperature cycles characteristic of the water body are not maintained. (7-1-93)

~~iii~~**c.** If the water is designated for warm water aquatic life, the induced variation is more than plus two (+2) degrees C. (3-15-02)

~~iv~~**d.** If the water is designated for cold water aquatic life, seasonal cold water aquatic life, or salmonid spawning, the induced variation is more than plus one (+1) degree C. (3-15-02)

~~v~~**e.** If temperature criteria for the designated aquatic life use are exceeded in the receiving waters upstream of the discharge due to natural background conditions, then Subsections ~~401.03.a.iii. 401.01.c. and 401.03.a.iv. 401.01.d.~~ do not apply and instead wastewater must not raise the receiving water temperatures by more than three tenths (0.3) degrees C. (3-15-02)(____)

~~b~~02. Turbidity. The wastewater must not increase the turbidity of the receiving water outside the mixing zone by: (7-1-93)

~~i~~**a.** More than five (5) NTU (Nephelometric Turbidity Units) over background turbidity, when background turbidity is fifty (50) NTU or less; or (7-1-93)

~~ii~~**b.** More than ten percent (10%) increase in turbidity when background turbidity is more than fifty (50) NTU, not to exceed a maximum increase of twenty-five (25) NTU. (7-1-93)

~~c~~03. Total Chlorine Residual. The wastewater must not affect the receiving water outside the mixing zone so that its total chlorine residual concentration exceeds eleven one-thousandths (0.011) mg/l. (1-1-89)

~~04. Limitations on Increased Treatment Requirements.~~ ~~In spite of any other provision and future amendment of these regulations, any point source treatment facility whose construction began after June 28, 1973, which was designed to meet federal and state requirements and which was constructed to the full satisfaction of the Department, will not be subject to any more stringent requirements or limitations as can be imposed by the Department during a ten (10) year period beginning on the date of completion of such construction except:~~ (7-1-93)

~~a.~~ *In conformance with contractual agreements made with the Department, in which*

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~~case the date of completion of those agreements would establish the beginning of the ten (10) year period;~~ (7-1-93)

~~b. When facility expansion, production increase, or process modification would alter the composition of the discharge or exceed the design capacity of the treatment facility; or~~ (7-1-93)

~~c. When a component or a concentration of a component in the discharge is later found to be causing or to be capable of causing significant injury to a designated beneficial use.~~ (8-24-94)

05. ~~Exceptions to Treatment Requirements.~~ ~~Exceptions to treatment requirements can be granted on a case-by-case basis when it can be demonstrated by the person requesting the exceptions;~~ (7-1-93)

~~a. That such exceptions will not seriously affect existing water quality and uses are adequately protected;~~ (7-1-93)

~~b. That the treatment requirement is:~~ (7-1-93)

~~i. Unreasonable with current applicable technology; or~~ (7-1-93)

~~ii. Economically prohibitive; or~~ (7-1-93)

~~c. That treatment to a lesser degree would result in a net improvement in the water quality of the receiving water.~~ (7-1-93)

06. ~~Operation.~~ ~~Any person who owns or operates any sewage or other wastewater treatment facility must at all times;~~ (7-1-93)

~~a. Insure that such facility is operated under competent supervision and with the highest efficiency that can reasonably be expected; and~~ (7-1-93)

~~b. Maintain such facility in good repair.~~ (7-1-93)

07. ~~Treatment Records.~~ ~~Any person who owns or operates any facility or carries out any operation which results in the discharge of wastewater must furnish to the Department such information concerning quality and quantity of discharged wastewaters and maintain such treatment records as the Department requires to evaluate the effects of any receiving waters. Required information can include, but is not limited to:~~ (7-1-93)

~~a. Treated wastewater discharge volumes; and~~ (7-1-93)

~~b. Treated wastewater discharge BOD; and~~ (7-1-93)

~~c. Treated wastewater discharge suspended solid concentration; and~~ (7-1-93)

~~d. Discharge pH; and~~ (7-1-93)

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~~e. Discharge temperatures. (7-1-93)~~

~~08. **Falsification of Records.** It is a violation of these regulations for any person to falsify or knowingly render inaccurate any treatment record which can be required as provided in these regulations. (7-1-93)~~

~~402. REVIEW OF PLANS FOR WASTE TREATMENT FACILITIES.~~

~~“Recommended Standards for Sewage Works” by the Great Lakes Upper Mississippi River Board of State Sanitary Engineers, and all applicable laws, rules, regulations and standards will be used as guides in the review of plans and specifications for waste treatment facilities. (7-1-93)~~

~~01. **Plan and Specification Approval Required.** The construction, alteration or expansion of any sewage treatment system or other wastewater treatment or disposal facility must not begin before plans and specifications for the proposed facility have been submitted to and approved by the Department, except as provided in Subsection 402.03. (7-1-93)~~

~~02. **Professional Engineer.** Plans and specifications for construction, alteration or expansion of any publicly owned sewage wastewater treatment facility shall be prepared by or under the supervision of a registered professional engineer and shall bear the imprint of the engineer's seal. Construction shall be inspected by a registered professional engineer or a person under the supervision of a registered professional engineer. (7-1-93)~~

~~03. **Deviations From Approved Plans.** No deviations are to be made from the approved plans and specifications without prior approval of the Department. (7-1-93)~~

~~04. **As-Constructed Plans and Specifications.** If actual construction deviates from the approved plans and specifications, complete and accurate plans and specifications depicting the actual construction, alteration, or modification performed, shall be submitted to the Department for review and approval within thirty (30) days of completion of construction. (7-1-93)~~

~~05. **Waiver of Approval Requirement.** The Department can waive the plan and specification approval required in Subsection 402.01 for any particular facility or category of facilities which will have no significant impact on the environment or on the public health. (7-1-93)~~

~~403. CLASSIFICATION OF WASTEWATER SYSTEMS.~~

~~01. **Classification Requirement.** All public wastewater systems shall be classified based on indicators of potential health risks. (4-6-05)~~

~~a. Classification rating forms developed in accordance with the criteria in Subsection 403.02 must be completed by the public wastewater system owner or designee for every public wastewater treatment system and wastewater collection system no later than July 1, 2008. Public wastewater treatment and wastewater collection system owners or designee shall submit additional classification rating forms at five (5) year intervals detailing existing conditions. (4-6-05)~~

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~~b. The Department shall review system classification rating forms submitted by the public wastewater treatment and wastewater collection system owners at five (5) year intervals and classify the systems to reflect the condition at the time of the initial classification, or changed conditions, if any, on subsequent submittals. (4-6-05)~~

~~02. **Classification Criteria.** Public wastewater treatment systems and wastewater collection systems shall be classified under a system that uses the following criteria: (4-2-03)~~

~~a. Complexity, size, volume and variability in raw waste for treatment systems using guidelines established by the Department. (4-2-03)~~

~~b. Complexity or size of collection systems. (4-2-03)~~

~~c. Other criteria deemed necessary to completely classify systems. (4-2-03)~~

404. ~~WASTEWATER SYSTEM OPERATOR LICENSURE REQUIREMENTS.~~

~~01. **System Operator Licensure Requirement.** Owners of all public wastewater systems must place the direct supervision of their wastewater system(s), including each treatment system and each collection system, under the responsible charge of an operator who holds a valid license equal to or greater than the classification of the wastewater treatment system and collection system. An operator in responsible charge of both a wastewater treatment system and a collection system shall hold two (2) licenses, one (1) for wastewater treatment and one (1) for collection. Owners shall notify the Department in writing of any change of responsible charge or substitute responsible charge operator within ten (10) days of such change. (4-6-05)~~

~~02. **Responsible Charge Operator License Requirement.** An operator in responsible charge of a public wastewater system in Idaho must hold a valid license equal to or greater than the classification of the wastewater system(s), including each treatment system, where present, and each collection system as determined by the Department. (4-6-05)~~

~~03. **Substitute Responsible Charge Operator.** At such times as the responsible charge operator is not available, a substitute responsible charge operator shall be designated to replace the responsible charge operator. (4-2-03)~~

~~04. **Wastewater Operator Licensure.** All other operating personnel at public wastewater systems including each treatment system and collection system must hold a valid license. (4-6-05)~~

~~05. **Compliance Deadline.** All public wastewater systems addressed in these rules shall be in compliance with these rules by April 15, 2006. (4-2-03)~~

~~06. **Qualifications For Operator Licensure.** All wastewater operating personnel, including responsible charge and substitute responsible charge operators, must qualify for and hold a valid license issued by the Idaho Bureau of Occupational Licenses. (4-6-05)~~

405. ~~CONTRACTING FOR SERVICES.~~

~~Public wastewater systems may contract with a licensed public wastewater system operator or~~

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~~with a public wastewater system having licensed operators to provide supervision. The contracted public wastewater system operator or contracted entity shall employ an operator licensed at the grade equal to or greater than the classification of the system.~~ (4-6-05)

~~406.—419. (RESERVED).~~

420. POINT SOURCE SEWAGE WASTEWATER DISCHARGE RESTRICTIONS.

~~All provisions and requirements of Sections 400, 401, and 402 are applicable to sewage wastewater treatment facilities and their discharges.~~ (8-24-94)

~~**01. General Treatment Requirements.** Except as provided in Subsections 420.02 and 420.03, sewage wastewater discharges, except those from lagoon or trickling filter facilities, into surface waters of the state must have the following characteristics:~~ (7-1-93)

~~**a.** BOD—the equivalent of eighty-five percent (85%) removal of the biochemical oxygen demand, but not more than a thirty (30) day average concentration of thirty (30) mg/l; and~~ (7-1-93)

~~**b.** Suspended Solids—the equivalent of eighty-five percent (85%) removal of the suspended solids, but not more than a thirty (30) day average concentration of thirty (30) mg/l.~~ (7-1-93)

~~**02. Alternative Treatment Requirements.** The following alternative treatment requirements are established to apply to facilities which provide at least sixty-five percent (65%) BOD removal using a trickling filter or lagoon as the principal treatment process, and which the Department determines cannot consistently achieve requirements of Subsections 420.01.a. and 420.01.b.~~ (7-1-93)

~~**a.** Sewage wastewater discharges from facilities using trickling filters as the principal treatment process must have the following characteristics:~~ (7-1-93)

~~**i.** BOD—not to exceed a thirty (30) day average concentration of forty-five (45) mg/l; and~~ (7-1-93)

~~**ii.** Suspended Solids—at least sixty-five percent (65%) removal and not to exceed a thirty (30) day average concentration of forty-five (45) mg/l.~~ (7-1-93)

~~**b.** Sewage wastewater discharges from facilities using lagoons as the principal treatment process must have the following characteristics:~~ (7-1-93)

~~**i.** BOD—not to exceed a thirty (30) day average concentration of forty-five (45) mg/l; and~~ (7-1-93)

~~**ii.** Suspended Solids—not to exceed a thirty (30) day average concentration of seventy (70) mg/l.~~ (7-1-93)

~~**03. Adjusted Treatment Requirements for Industrial Loading.** The Department may proportionally adjust, on a case-by-case basis, the treatment requirements of Subsection 401.03~~

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~~or 401.05 where industrial waste loadings contribute greater than ten percent (10%) of the design flow or loading into a publicly owned sewage treatment facility.~~ (7-1-93)

~~04. Determining the Necessity for Disinfection of Sewage Wastewater Treatment Plant Effluent.~~ (8-24-94)

~~a. Disinfection of sewage treatment plant effluent shall be required when discharged to a water body under the following conditions:~~ (8-24-94)

~~i. The water body receiving the effluent flows through a significantly populated area or has a designated or existing beneficial use of primary contact recreation.~~ (8-24-94)

~~ii. The water body receiving the effluent is a direct tributary to a water body that flows through a significantly populated area or has a designated or existing beneficial use of primary contact recreation and disinfection is necessary to protect public health.~~ (8-24-94)

~~iii. Site-specific conditions warrant disinfection for the protection of public health.~~ (8-24-94)

~~b. The need for disinfection of sewage wastewater treatment plant effluent where treatment consists of lagoons with at least thirty (30) day retention time shall be evaluated on a case-by-case basis.~~ (8-24-94)

~~05. Disinfection Requirements for Sewage Wastewater Treatment Plant Effluent.~~
~~When disinfection is determined to be required under Subsection 420.04, sewage wastewater treatment plant effluent must receive adequate disinfection by any disinfection process which satisfies the following applicable criteria, prior to discharge to any receiving water.~~ (8-24-94)

~~a. E. coli concentrations in secondary treated effluent must not exceed a geometric mean of one hundred and twenty-six (126) colonies per one hundred (100) milliliters based on a minimum of five (5) samples taken every three (3) to five (5) days over a thirty-day (30) period. A single sample must not exceed four hundred and six colonies per one hundred milliliters (406 colonies per 100 ml).~~ (3-15-02)

~~i. The samples must be representative of all samples collected during the month; and~~ (3-15-02)

~~ii. Geometric mean computations must be calculated and recorded monthly.~~ (3-15-02)

~~b. On an interim basis, pending the addition of secondary treatment, E. coli concentrations in primary effluent must not exceed a geometric mean of two hundred and fifty-two (252) colonies per one hundred (100) milliliters based on a minimum of five (5) samples taken every three (3) to five (5) days over a thirty-day (30) period. A single sample must not exceed eight hundred and twelve colonies per one hundred milliliters (812 colonies per 100 ml).~~ (3-15-02)

~~i. The samples must be representative of all samples collected during the month;~~

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(3-15-02)

- ii. ~~Geometric mean computations must be calculated and recorded monthly; and~~

(3-15-02)

- iii. ~~This discharge bacteria level will not be permitted even on an interim basis where the bacteria receiving water quality standard is not being met.~~

(3-15-02)

~~06. Chlorine Contact Tank Requirements.~~ ~~Chlorine contact tanks providing disinfection must be designed and operated so that:~~

(7-1-93)

- a. ~~Short circulating is minimized with thorough mixing of chlorine and waste flow;~~

(7-1-93)

- b. ~~Floatable and settleable solids are removed without discharging unchlorinated effluent; and~~

(7-1-93)

- c. ~~Unit drains are not discharged into the treated wastewater outfall.~~

(7-1-93)

~~421.—439. (RESERVED).~~

~~440. POINT SOURCE NON-SEWAGE WASTEWATER DISCHARGE RESTRICTIONS.~~

~~All provisions and requirements of Section 440 are applicable to non-sewage wastewater treatment facilities and their discharges.~~

(7-1-93)

~~01. Treatment Requirements.~~ ~~Non-sewage wastewaters discharged into surface waters of the state shall, prior to discharge, be treated to the extent necessary to be consistent with applicable limitations and guidelines published by the Administrator of the EPA in compliance with the Clean Water Act of 1977, as amended (33 USC 1251, et seq.).~~

(7-1-93)

~~02. Disinfection of Non-Sewage Wastewaters.~~ ~~Non-sewage wastewaters discharged into waters of the state, prior to discharge, will be disinfected if they contain or if they might contain pathogenic organisms in concentrations capable of threatening actual or designated uses.~~

(7-1-93)

~~441.—459. (RESERVED).~~

~~460. SUBSURFACE SEWAGE OR WASTE DISPOSAL.~~

~~Subsurface sewage or wastewater disposal facilities must be designed and located so that pollutants cannot be reasonably expected to enter water of the state in concentrations resulting in injury to beneficial uses.~~

(8-24-94)

~~461.—479. (RESERVED).~~

~~480. WASTE DISPOSAL AND INJECTION WELLS.~~

~~The construction and operation of wastewater injection wells within the state are regulated by the Idaho Department of Water Resources.~~

(7-1-93)

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~~481.—599. (RESERVED).~~

600. ~~LAND APPLICATION OF WASTEWATER(S) OR RECHARGE WATERS.~~

~~Land application of wastewater or recharge waters is subject to the following requirements:~~

~~(11-20-87)~~

~~**01. Land Application Permit.** Idaho Department of Environmental Quality Rules, Title 01, Chapter 17, "Land Application Permit Rules," require a permit prior to land application of certain types of wastewater.~~

~~(11-20-87)~~

~~**02. Applied Waters Restricted to Premises.** Wastewater(s) or recharge waters applied to the land surface must be restricted to the premises of the application site unless permission has been obtained from the Department authorizing a discharge into the waters of the state.~~

~~(7-1-93)~~

~~**03. Hazard or Nuisance Prohibited.** Wastewaters must not create a public health hazard or a nuisance condition.~~

~~(7-1-93)~~

~~**04. Monitoring.** Provision must be made for monitoring the quality of the ground water in proximity of the application site. The ground water monitoring program is subject to approval by the Department. All data and reports resulting from the ground water monitoring program must be submitted to the Department upon request. The minimum frequency of monitoring and data submittal will be determined by the Department and in general will be dependent upon:~~

~~(8-24-94)~~

~~**a.** The nature and volume of wastewater material or recharge water;~~

~~(7-1-93)~~

~~**b.** The frequency and duration of application; and~~

~~(7-1-93)~~

~~**c.** The characteristics of the soil mantle on and lithology underlying the application site.~~

~~(7-1-93)~~

~~**05. Basis for Evaluation.** The evaluation for an approval to irrigate, either by sprinkling or flooding or surface spreading of wastewater material or by burying wastewater material or recharge water in the upper soil horizon as a method of treatment, must include, but will not necessarily be limited to, consideration of the following items:~~

~~(7-1-93)~~

~~**a.** The type and quantity of wastewater(s) proposed for land application. In general, the wastewater(s) organic constituents are to be biologically degradable and inorganic constituents must be utilized by vegetation or those organisms normally present in the soil. Other wastewater(s) or recharge waters will be considered provided it can be shown that land application will not adversely affect beneficial uses of waters of the state.~~

~~(7-1-93)~~

~~**b.** The nature of the soils and geologic formations underlying the application site. The entity proposing the activity must provide reasonable assurance that the soils and site geology will provide the required level of treatment and will not allow movement of pollutants into the underlying ground water.~~

~~(8-24-94)~~

~~**c.** The ability of the soil and vegetative cover on the application site to remove the~~

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~~pollutants contained in the applied waters through the combined processes of consumptive use and biological and chemical inactivation.~~ (7-1-93)

~~601. — 649. (RESERVED).~~

~~650. **SLUDGE USAGE.**~~

~~01. **Disposal Plans Required.** Sludge can be utilized as soil augmentation only in conformance with:~~ (7-1-93)

~~a. A Department approved sludge disposal plan; or~~ (7-1-93)

~~b. Procedures and in a manner approved by the Department on a site-by-site basis.~~ (7-1-93)

~~02. **Basis for Evaluation.** Sludge disposal plans and sludge utilization proposals will be evaluated by the Department in regard to their protection of water quality and public health.~~ (7-1-93)

~~03. **Elements of Plans and Proposals.** Plans and proposals must at a minimum provide:~~ (7-1-93)

~~a. That only stabilized sludge will be used.~~ (7-1-93)

~~b. The criteria utilized for site selection, including:~~ (7-1-93)

~~i. Soil description;~~ (7-1-93)

~~ii. Geological features;~~ (7-1-93)

~~iii. Groundwater characteristics;~~ (7-1-93)

~~iv. Surrounding land use;~~ (7-1-93)

~~v. Topography; and~~ (7-1-93)

~~vi. Climate.~~ (7-1-93)

~~c. A description of the application process.~~ (7-1-93)

~~d. A statement detailing procedures to prevent application which could result in a reduction of soil productivity or in the percolation of excess nutrients.~~ (7-1-93)

~~e. Identification of potential adverse health effects in regard to the sludge and its proposed use.~~ (7-1-93)

~~f. Delineation of methods or procedures to be used to alleviate or eliminate adverse health effects.~~ (7-1-93)

~~651402. -- 799.(RESERVED).~~

ENVIRONMENT, ENERGY & TECHNOLOGY
IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE
DOCKET NO. 58-0105-0501
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 3, 2005, Volume 05-8, pages 362 through 368. The agency received no public comments, and the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this pending rule, contact John Brueck at (208)373-0458 or john.brueck@deq.idaho.gov.

DATED this 2nd day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
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ENVIRONMENT, ENERGY & TECHNOLOGY

DEPARTMENT OF ENVIRONMENTAL QUALITY
Rules and Standards for Hazardous Waste

Docket No. 58-0105-0501
PENDING RULE

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Department of Environmental Quality (DEQ) has proposed rulemaking. The action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before August 17, 2005. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: Idaho's Rules and Standards for Hazardous Waste are updated annually to maintain consistency with the U.S. Environmental Protection Agency's federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). Idaho has historically adopted both required and optional federal regulations so that Idaho's hazardous waste rules are the same as federal requirements. Optional federal regulations usually allow more flexibility to the regulated community; required federal regulations are necessary to maintain program primacy. Adoption by reference allows the Department of Environmental Quality (DEQ) to keep its rules up to date with federal regulation changes and minimizes the EPA Region 10 effort needed to keep Idaho's authorization current. Adoption by reference also simplifies compliance for the regulated community. This proposed rule updates citations to the federal regulations incorporated by reference to include those revised as of July 1, 2005.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2006 legislative session if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

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DEPARTMENT OF ENVIRONMENTAL QUALITY
Rules and Standards for Hazardous Waste

Docket No. 58-0105-0501
PENDING RULE

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact John Brueck at (208)373-0458 or john.brueck@deq.idaho.gov.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before August 31, 2005.

Dated this 1st day of July, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.

Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260-266, 268, 270, 273, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 2004⁵, including any notes and appendices therein, unless expressly provided otherwise in these rules. (4-6-05)(____)

01. Exceptions. Nothing in 40 CFR Parts 260 - 266, 268, 270, 273, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. (7-2-97)

02. Availability of Referenced Material. The federal regulations adopted by reference throughout these rules are maintained at the following locations: (7-2-97)

- a.** U.S. Government Printing Office, <http://www.gpoaccess.gov/index.html>; and (3-20-04)
- b.** State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208)334-3316; and (7-2-97)
- c.** Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502. (7-2-97)

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DEPARTMENT OF ENVIRONMENTAL QUALITY
Rules and Standards for Hazardous Waste

Docket No. 58-0105-0501
PENDING RULE

(BREAK IN CONTINUITY OF SECTIONS)

004. HAZARDOUS WASTE MANAGEMENT SYSTEM.

Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260-266, 268, 270, 273, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 2004⁵, including any notes and appendices therein, unless expressly provided otherwise in these rules. (4-6-05)()

005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.

40 CFR Part 261 and all Subparts, except the language “in the Region where the sample is collected” in 40 CFR 261.4(e)(3)(iii), except remanded waste codes “K064, K065, K066, K090 and K091” listed in 40 CFR Part 261 Appendix VII, except “49 CFR 173.300” in 40 CFR 261.21(a)(3) as replaced with “49 CFR 173.115 or equivalent test methods in Chapter 7 of SW-846,” except “49 CFR 173.151” in 40 CFR 261.21(a)(4) as replaced with “49 CFR 173.127” and except 40 CFR 261.23(a)(8), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004⁵. For purposes of 40 CFR 261.10 and 40 CFR 261.11, “Administrator” shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 261 Appendix IX, “EPA” shall be defined as the U.S. Environmental Protection Agency. (4-6-05)()

01. Excluded Wastes. Chemically Stabilized Electric Arc Furnace Dust (CSEAFD) generated by Envirosafe Services of Idaho, Inc. (ESII) at ESII’s facility in Grand View, Idaho using the Super Detox(R) treatment process as modified by ESII and that is disposed of in a Subtitle D or Subtitle C landfill is excluded from the lists of hazardous waste provided ESII implements a program that meets the following conditions: (3-16-96)

a. Verification Testing Requirements. Sample Collection and analyses, including quality control procedures, conducted pursuant to Subsections 005.01.b. and 005.01.c., must be performed according to SW-846 methodologies and the RCRA Part B permit, including future revisions. (3-16-96)

b. Initial Verification Testing. (3-16-96)

i. For purposes of Subsections 005.01.b., “new source” shall mean any generator of Electric Arc Furnace Dust (EAFD), EPA and Idaho Department of Environmental Quality Hazardous Waste No. KO61, whose waste has not previously been processed by ESII using the Super Detox(R) treatment process resulting in processed EAFD which has been subjected to initial verification testing and has demonstrated compliance with the delisting levels specified in Subsection 005.01.d. (3-16-96)

ii. Prior to the initial treatment of any new source of EAFD, ESII must notify the Department in writing. The written notification shall include: (3-16-96)

(1) The waste profile information; and (3-16-96)

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- (2) The name and address of the generator. (3-16-96)
- iii. The first four (4) consecutive batches treated must be sampled in accordance with Subsection 005.01.a. Each of the four (4) samples shall be analyzed to determine if the CSEAFD generated meets the delisting levels specified in Subsection 005.01.d. (3-16-96)
- iv. If the initial verification testing demonstrates that the CSEAFD samples meet the delisting levels specified in Subsection 005.01.d., ESII shall submit the operational and analytical test data, including quality control information, to the Department, in accordance with Subsection 005.01.f. Subsequent to such data submittal, the CSEAFD generated from EAFD originating from the new source shall be considered delisted. (3-16-96)
- v. CSEAFD generated by ESII from EAFD originating from a new source shall be managed as hazardous waste in accordance with Subtitle C of RCRA until: (3-16-96)
- (1) Initial verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d.; and (3-16-96)
- (2) The operational and analytical test data is submitted to the Department pursuant to Subsection 005.01.b.iv. (3-16-96)
- vi. For purposes of Subsections 005.01.b. and 005.01.c., “batch” shall mean the CSEAFD which results from a single treatment episode in a full scale mixing vessel. (3-16-96)
- c. Subsequent Verification Testing.** (3-16-96)
- i. Subsequent to initial verification testing, ESII shall collect a representative sample, in accordance with Subsection 005.01.a., from each batch of CSEAFD generated by ESII. ESII may, at its discretion, conduct subsequent verification testing on composite samples. In no event shall a composite sample consist of representative samples from more than twenty (20) batches of CSEAFD. (3-16-96)
- ii. The samples shall be analyzed prior to disposal of each batch of CSEAFD to determine if the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)
- iii. Each batch of CSEAFD generated by ESII shall be subjected to subsequent verification testing no later than thirty (30) days after it is generated by ESII. (3-16-96)
- iv. If the levels of constituents measured in a sample, or composite sample, of CSEAFD do not exceed the levels set forth in Subsection 005.01.d., then any batch of CSEAFD which contributed to the sample that does not exceed the levels set forth in Subsection 005.01.d. is non-hazardous and may be managed and/or disposed of in a Subtitle D or Subtitle C landfill. (3-16-96)
- v. If the constituent levels in a sample, or composite sample, exceed any of the delisting levels set forth in Subsection 005.01.d., then ESII must submit written notification of the results of the analysis to the Department within fifteen (15) days from receiving the final

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analytical results, and any CSEAFD which contributed to the sample must be: (3-16-96)

(1) Retested, and retreated if necessary, until it meets the levels set forth in Subsection 005.01.d.; or (3-16-96)

(2) Managed and disposed of in accordance with Subtitle C of RCRA. (3-16-96)

vi. Each batch of CSEAFD shall be managed as hazardous waste in accordance with Subtitle C of RCRA until subsequent verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

d. Delisting Levels. (3-16-96)

i. All leachable concentrations for these metals must not exceed the following levels (mg/l):

| | |
|-----------|-------|
| antimony | 0.06 |
| arsenic | 0.50 |
| barium | 7.60 |
| beryllium | 0.010 |
| cadmium | 0.050 |
| chromium | 0.33 |
| lead | 0.15 |
| mercury | 0.009 |
| nickel | 1 |
| selenium | 0.16 |
| silver | 0.30 |
| thallium | 0.020 |
| vanadium | 2 |
| zinc | 70 |

(3-16-96)

ii. Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR Part 261.24. (3-16-96)

e. Modification of Treatment Process. (3-16-96)

i. If ESII makes a decision to modify the Super Detox(R) treatment process from the description of the process as set forth in ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995, ESII shall notify the Department in writing prior to implementing the modification. (3-16-96)

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ii. After ESII's receipt of written approval from the Department, and subject to any conditions included with the approval, ESII may implement the proposed modification. (3-16-96)

iii. If ESII modifies its treatment process without first receiving written approval from the Department, this exclusion of waste will be void from the time the process was modified. (3-16-96)

iv. ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995 is available at the Department of Environmental Quality, Permits and Enforcement, 1410 N. Hilton, Boise, Idaho 83706. (3-16-96)

f. Records and Data Retention and Submittal. (3-16-96)

i. Records of disposal site, operating conditions and analytical data from verification testing must be compiled, summarized, and maintained at ESII's Grand View facility for a minimum of five (5) years from the date the records or data are generated. (3-16-96)

ii. The records and data maintained by ESII must be furnished upon request to the Department or EPA. (3-16-96)

iii. Failure to submit requested records or data within ten (10) business days of receipt of a written request or failure to maintain the required records and data on site for the specified time, will be considered by the Department, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the Department. (3-16-96)

iv. All records or data submitted to the Department must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the records or data submitted: "Under civil and/or criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify that the information contained in or accompanying this document is true, accurate, and complete. As to any identified sections of this document for which I cannot personally verify the truth and accuracy, I certify as the ESII official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by the Department in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to ESII, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Department and that ESII will be liable for any actions taken in contravention of ESII's RCRA and CERCLA obligations premised upon ESII's reliance on the void exclusion." (3-16-96)

g. Facility Merger and Name Change. On May 4, 2001, the Department was notified of a stock transfer that resulted in ESII's facility merging with American Ecology. This created a name change from Envirosafe Services of Idaho, Inc. (ESII) to US Ecology Idaho, Inc. effective May 1, 2001. All references to Envirosafe Services of Idaho, Inc. or ESII now refer to US Ecology Idaho, Inc. (3-15-02)

006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.

01. Incorporation by Reference. 40 CFR Part 262 and all Subparts, except for the

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language “for the Region in which the generator is located” in 40 CFR 262.42(a)(2) and 40 CFR 262.42(b), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~. For purposes of 40 CFR 262.55, 262.56, and 262.57(b), “Administrator” shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. Copies of advance notification, annual reports, and exception reports, required under those sections, shall also be provided to the Director. For purposes of 40 CFR 262.51, 262.53, 262.54(g)(1), and 262.85(g), EPA shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR Part 262 Subparts E, F, H, and 40 CFR 262.41(a)(4), “United States or U.S.” shall be defined as the United States. ~~(4-6-05)~~(____)

02. Generator Emergency Notification. In addition to the emergency notification required by 40 CFR 265.56(d)(2), 262.34(d)(5)(iv)(C), (see 40 CFR 262.34(a)(4)), 263.30(c)(1), and 264.56(d)(2), the emergency coordinator must also immediately notify the State Communications Center by telephone, 1-800-632-8000, to file an identical report. (3-15-02)

007. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.

40 CFR Part 263 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~. For purposes of 40 CFR 263.20(g), 263.20(g)(1), 263.20(g)(4), 263.21(a)(4), and 263.22(d), “United States” shall be defined as the United States. ~~(4-6-05)~~(____)

008. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

40 CFR Part 264 and all Subparts (excluding 40 CFR 264.1(f), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f) and 264.1080(g)) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~. For purposes of 40 CFR Subsection 264.12(a), “Regional Administrator” shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 264.1082(c)(4)(ii), “EPA” shall be defined as the U.S. Environmental Protection Agency. ~~(4-6-05)~~(____)

009. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

40 CFR Part 265, and all Subparts (excluding Subpart R, 40 CFR 265.1(c)(4), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g)) and except the language contained in 40 CFR 265.340(b)(2) as replaced with, “The following requirements continue to apply even when the owner or operator has demonstrated compliance with the MACT requirements of part 63, subpart EEE of this chapter: 40 CFR 265.351 (closure) and the applicable requirements of Subparts A through H, BB and CC of this part.”, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~. For purposes of 40 CFR Subsection 265.12(a), “Regional Administrator” shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 265.1083(c)(4)(ii), “EPA” shall be defined as the U.S. Environmental Protection Agency. ~~(4-6-05)~~(____)

010. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE FACILITIES.

40 CFR Part 266 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~. ~~(4-6-05)~~(____)

011. LAND DISPOSAL RESTRICTIONS.

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40 CFR Part 268 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~, except for 40 CFR 268.1(e)(3), 268.5, 268.6, 268.13, 268.42(b), and 268.44(a) through (g). The authority for implementing the provisions of these excluded sections remains with the EPA. However, the requirements of Sections 39-4403(17) and 39-4423, Idaho Code, shall be applied in all cases where these requirements are more stringent than the federal standards. If the Administrator of the EPA grants a case-by-case variance pursuant to 40 CFR 268.5, that variance will simultaneously create the same case-by-case variance to the equivalent requirement of these rules. For purposes of 40 CFR 268.2(j) "EPA" shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR 268.40(b), "Administrator" shall be defined as U.S. Environmental Protection Agency Administrator. In 40 CFR 268.7(a)(9)(iii), "D009" is excluded, (from lab packs as noted in 40 CFR Part 268 Appendix IV.) In 40 CFR 268.48(a), the entry for "2,4,6-Tribromophenol" is excluded. ~~(4-6-05)~~(____)

012. HAZARDOUS WASTE PERMIT PROGRAM.

40 CFR Part 270 and all Subparts, except 40 CFR 270.12(a) and 40 CFR 270.14(b)(18), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~. For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(2), 270.10(f)(3), 270.10(g), 270.11(a)(3), 270.32(a), 270.32(b)(2), 270.32(c), 270.51, 270.72(a)(5), and 270.72(b)(5), "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator respectively. ~~(4-6-05)~~(____)

013. PROCEDURES FOR DECISION-MAKING (STATE PROCEDURES FOR RCRA OR HWMA PERMIT APPLICATIONS).

40 CFR Part 124, Subparts A and B are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~, except that 40 CFR 124.19, the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii) "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively. ~~(4-6-05)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

015. STANDARDS FOR THE MANAGEMENT OF USED OIL.

01. Incorporation by Reference. 40 CFR Part 279 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~. For purposes of 40 CFR 279.43(c)(3)(ii) "Director" shall be defined as the Director, U.S.DOT Office of Hazardous Materials Regulation. ~~(4-6-05)~~(____)

02. Used Oil as a Dust Suppressant. 40 CFR Part 279 contains a prohibition on the use of used oil as a dust suppressant at 279.82(a), however, States may petition EPA to allow the use of used oil as a dust suppressant. Members of the public may petition the State to make this

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application to EPA. This petition to the State must: (2-11-94)

a. Be submitted to the Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706-1255; and (2-11-94)

b. Demonstrate how the requirements of 40 CFR 279.82(b) will be met. (2-11-94)

016. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.

40 CFR Part 273 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~. For purposes of 40 CFR 273.32(a)(3), "EPA" shall be defined as the U.S. Environmental Protection Agency. (~~4-6-05~~)(____)

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 7, 2005, Vol. 05-9, pages 359 through 390. After consideration of public comments, the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to regulate an activity not regulated by the federal government. There is no federal law or regulation that is comparable to plan and specification review and facility standard provisions set forth in this rule. Therefore, the changes to the rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which “proposes to regulate an activity not regulated by the federal government”. The engineering standards for design, construction, and operation of public drinking water systems regulate activities that are not regulated by the federal government. These standards were originally promulgated to fulfill the requirements of Section 39-118, Idaho Code, and pre-date the Safe Drinking Water Act. These rules address the review and approval of plans and specifications for public drinking water systems and the standard by which the agency does the review and approval. This is not an activity regulated by the federal government. Therefore, Section 39-107D, Idaho Code, applies.

Section 39-107D(3), Idaho Code, provides that any rule subject to 39-107D that proposes a standard necessary to protect human health and the environment must also include in the rulemaking record and in the notice of rulemaking additional information. This additional information includes any estimates of risk accomplished, identification of populations or receptors addressed by any estimates, and other information related to an estimation of risk. The rules include facility standards which are intended to protect human health and the environment. The standards, however, are for the design and construction of public

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drinking water facilities. For example, the rules require that water mains be constructed using materials that meet national standards for potable water. The rules are not based upon any express estimate or analysis of risk to public health or the environment. Instead, the facility standards are based upon guidelines set forth in documents, such as the “Recommended Standards for Water Works” and the “American Water Works Association Standards,” that are generally accepted and used throughout the United States by engineers and state regulators.

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ’s programs and activities, visit DEQ’s web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this pending rule, contact Tom John at thomas.john@deq.idaho.gov, (208)373-0191.

Dated this 16th day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 21, 2005. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The 2005 Legislature enacted Senate Bill 1220 requiring the Department of Environmental Quality (DEQ) to establish facility and design standards. DEQ has initiated this rulemaking in response to that legislation. Portions of the existing rule, and portions of documents incorporated as rule that relate to design of drinking water line

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extensions, will be modified to delete from the rule some items identified as guidance. In addition, this rulemaking adds and/or renumbers the standard rule sections necessary for conformance with IDAPA 44.01.01, “Rules of the Administrative Rules Coordinator”.

Developers, cities, counties, drinking water system owners, consultants, engineers, and the public at large may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

SECTION 39-107D IDAHO CODE STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to regulate an activity not regulated by the federal government. There is no federal law or regulation that is comparable to plan and specification review and facility standard provisions set forth in this proposed rule. Therefore, the proposed changes to the rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which “proposes to regulate an activity not regulated by the federal government”. The engineering standards for design, construction, and operation of public drinking water systems regulate activities that are not regulated by the federal government. These standards were originally promulgated to fulfill the requirements of Section 39-118, Idaho Code, and pre-date the Safe Drinking Water Act. These proposed rules address the review and approval of plans and specifications for public drinking water systems and the standard by which the agency does the review and approval. This is not an activity regulated by the federal government. This is an activity, however, that DEQ has regulated for years pursuant to Section 39-118, Idaho Code, and 58.01.08, “Idaho Rules for Public Drinking Water Systems” (Drinking Water Rules). To the extent DEQ is not proposing any new regulation of activities, Section 39-107D, Idaho Code, is most likely not applicable.

During the 2005 legislative session, the Idaho Legislature passed SB 1220. Among other things, this legislation amended Section 39-118, Idaho Code, so that it requires that all plans and specifications reviewed by DEQ, or by others as allowed under the new law, comply with “facility and design standards”. The legislation then directs DEQ to work with professional engineers to establish such standards. DEQ currently reviews the plans and specifications according to the Drinking Water Rules, which reference the “Recommended Standards for Water Works” as a tool used in the review process. The proposed rules, however, also add explicit facility standards that must be met in the review and approval process. In this way, the proposed rules appear to modify the existing DEQ regulatory program. Under these circumstances, it is unclear whether the proposed rules are subject to the provisions of Section 39-107D, Idaho Code.

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Assuming Section 39-107D, Idaho Code, is applicable, 39-107D(3) provides that any rule subject to 39-107D that proposes a standard necessary to protect human health and the environment must also include in the rulemaking record and in the notice of rulemaking additional information. This additional information includes any estimates of risk accomplished, identification of populations or receptors addressed by any estimates, and other information related to an estimation of risk. The proposed rules include facility standards which are intended to protect human health and the environment. The standards, however, are for the design and construction of public drinking water facilities. For example, the rules require that water mains be constructed using materials that meet national standards for potable water. The rules are not based upon any express estimate or analysis of risk to public health or the environment. Instead, the facility standards are based upon guidelines set forth in documents, such as the "Recommended Standards for Water Works" and the "American Water Works Association Standards," that are generally accepted and used throughout the United States by engineers and state regulators.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, June 1, 2005, Vol. 05-6, page 45.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Tom John at (208) 373-0191, Thomas.John@deq.idaho.gov.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before October 5, 2005.

Dated this 3rd day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

002. INCORPORATION BY REFERENCE And Availability Of Referenced Materials.

Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection of the Code of Federal Regulations (CFR), Title 40, Parts 141 and 143 shall constitute the full adoption by reference of that section or subsection, including any notes and appendices therein, unless expressly provided otherwise in these rules. Any reference in these

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~~rules to procedures, methods, standards, or construction criteria contained in a published technical manual shall constitute the full adoption by reference of the part of the technical manual that pertains to the procedure, method, standard, or construction criterion as it appears in the manual.~~ (3-15-02)

01. ~~Precedence~~ Incorporation by Reference. ~~In the event of conflict or inconsistency between the language in these rules and that found in any document incorporated by reference, these rules shall prevail.~~ The following documents are incorporated by reference into these rules. (5-3-03)(____)

a. 40 CFR Parts 141 and 143. Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection of 40 CFR Parts 141 and 143 shall constitute the full adoption by reference of that section or subsection, including any notes and appendices therein, unless expressly provided otherwise in these rules. (____)

b. Recommended Standards for Water Works: a report of the Water Supply Committee of the Great Lakes -- Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, 2003 Edition, except Parts One (1) and Eight (8). (____)

c. American Water Works Association (AWWA) Standards, Edition effective July 2005, available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. (____)

02. Availability of Specific Referenced Material. Copies of specific documents ~~adopted by reference throughout~~ referenced within these rules are available ~~in~~ at the following locations: (12-10-92)(____)

a. All federal regulations: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202)783-3238; ~~or~~ U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206) 553-4270; ~~and~~ or <http://www.gpoaccess.gov/index.html>. (7-1-97)(____)

b. All documents ~~herein~~ incorporated by reference: Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502. (7-1-97)(____)

c. Recommended Standards for Water Works: a report of the Water Supply Committee of the Great Lakes -- Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, published by Health Education Services, P.O. Box 7126, Albany, New York 12224, 2003, Telephone (518) 439-7286. (4-6-05)

d. Manual of Individual and Non-Public Water Supply Systems (EPA 570/9-91-004), published by the U.S. Environmental Protection Agency, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C.20402, Telephone (202) 782-3238. (5-3-03)

e. U.S. Department of Commerce, National Bureau of Standards Handbook, No. 69, "Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational

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Exposure” as amended in 1963, NCRP Publications, P.O. Box 20175, Washington, D.C. 20014.
(12-10-92)

f. Rules of the Idaho Water Resources Board, IDAPA 37.03.09, “Well Construction Standards Rules,” July 1993, available at the Idaho Department of Water Resources, Idaho Water Center, 322 E. Front St., P.O. Box 83720, Boise, Idaho 83720-0098, Telephone (208) 287-4800.
(4-6-05)

g. ANSI/NSF Standard 44-2002e -- 2004, Residential Cation Exchange Water Softeners, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010.
(4-6-05)

h. ANSI/NSF Standard 53-2002e -- 2003, Drinking Water Treatment Units -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010.
(4-6-05)

i. ANSI/NSF Standard 55-2002 -- 2002, Ultraviolet Microbiological Water Treatment Systems, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010.
(4-6-05)

j. ANSI/NSF Standard 58-2003 -- 2004, Reverse Osmosis Drinking Water Treatment Systems, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010.
(4-6-05)

k. American Water Works Association (AWWA) Standards, ~~Edition effective July, 2004~~, available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337.
(4-6-05)(____)

l. ANSI/NSF Standard 60-2000a -- 2000, Drinking Water Treatment Chemicals -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010.
(4-6-05)

m. ANSI/NSF Standard 61-2000a -- 2000, Drinking Water System Components -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010.
(4-6-05)

n. “Cross Connection Control Manual,” December 1995 Edition, available from Pacific Northwest Section of the American Water Works Association, P.O. Box 19581, Portland, OR, 97280-0581, Telephone (503) 246-5845.
(5-3-03)

o. “Idaho Guidance for Public Drinking Water Systems,” 2005 Edition, and subsequent revisions, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, www.deq.idaho.gov.
(____)

p. “Idaho Standards for Public Works Construction,” 2005 Edition, and subsequent revisions, Local Highway Technical Assistance Council, 3330 Grace Street, Boise, ID 83605, (208)344-0565.
(____)

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g. Memorandum of Understanding between the Idaho Department of Environmental Quality and the Idaho Division of Building Safety Plumbing Bureau, April 2003, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, www.deq.idaho.gov. ()

03. Precedence. In the event of conflict or inconsistency between the language in these rules and that found in any document incorporated by reference, these rules shall prevail. ()

003. DEFINITIONS.

The definitions set forth in 40 CFR 141.2, revised as of July 1, 2002, are herein incorporated by reference except for the definition of the terms “action level,” “disinfection,” “noncommunity water system,” and “person”. (5-3-03)

There Are No Changes to Subsections 003.01 Through 003.30

31. Facility Standards and Design Standards. Facility standards and design standards are described in Sections 549 through 552 of these rules. Facility and design standards found in Sections 549 through 552 of these rules must be followed in the planning, design, construction, and review of public drinking water facilities. ()

342. Fee Assessment. A charge assessed on public drinking water systems based on a rate structure calculated by system size. (10-1-93)

323. Filter Profile. A graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed. (4-5-00)

334. GAC10. Granular activated carbon filter beds with an empty bed contact time of ten (10) minutes based on average daily flow and a carbon reactivation frequency of every one hundred eighty (180) days. (4-5-00)

345. Groundwater System. A public water system which is supplied exclusively by a groundwater source or sources. (12-10-92)

356. Groundwater Under the Direct Influence of Surface Water. Any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as *Giardia lamblia* or *Cryptosporidium*, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence must be determined for individual sources in accordance with criteria established by the State. The State determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well construction characteristics and geology with field evaluation.

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367. Haloacetic Acids (Five) (HAA5). The sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid) rounded to two (2) significant figures after addition. (4-5-00)

378. Health Hazards. Any condition which creates, or may create, a danger to the consumer's health. Health hazards may consist of, but are not limited to, design, construction, operational, structural, collection, storage, distribution, monitoring, treatment or water quality elements of a public water system. See also the definition of Significant Deficiency, which refers to a health hazard identified during a sanitary survey. (5-3-03)

389. Inorganic. Generally refers to compounds that do not contain carbon and hydrogen. (12-10-92)

3940. Laboratory Certification Reciprocity. Acceptance of a laboratory certification made by another state. Laboratory reciprocity may be granted to laboratories outside of Idaho after application, proof of home state certification, and EPA performance evaluation results are submitted and reviewed. Reciprocity must be renewed after a time specified by the Idaho Laboratory Certification Officer to remain valid. (4-5-00)

401. License. A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. (4-6-05)

412. Log. Logarithm to the base ten (10). (12-10-92)

43. Material Deviation. A change from the design plans that significantly alters the type or location of facilities, requires engineering judgment to design, or impacts the public safety or welfare. ()

44. Material Modification. For the purpose of plan and specification review requirements as specified in Subsection 551.04, those modifications of an existing public water system that are intended to increase system capacity or alter the methods or processes employed. ()

425. Maximum Daily Consumption Rate. The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest on record. (12-10-92)

436. Maximum Hourly Demand. The greatest volume of water used in any hour during a one (1) year period. (12-10-92)

447. Maximum Residual Disinfectant Level (MRDL). A level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a public water system is in

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compliance with the MRDL, when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a public water system is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two (2) consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as maximum contaminant levels under Section 1412 of the Safe Drinking Water Act. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in 40 CFR 141.65, operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections. (4-5-00)

458. Maximum Residual Disinfectant Level Goal (MRDLG). The maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants. (4-5-00)

469. Method Detection Limit (MDL). The lowest concentration which can be determined to be greater than zero with ninety-nine percent (99%) confidence, for a particular analytical method. (12-10-92)

4750. New System. Any water system that meets, for the first time, the definition of a public water system provided in Section 1401 of the federal Safe Drinking Water Act (42 U.S.C. Section 300f). This includes systems that are entirely new construction and previously unregulated systems that are expanding. (4-5-00)

4851. Noncommunity Water System. A public water system that is not a community water system. A non-community water system is either a transient noncommunity water system or a non-transient noncommunity water system. (4-5-00)

52. Non-Potable Mains. The pipelines that collect and convey non-potable discharges from or to multiple service connections. ()

53. Non-Potable Services. The pipelines that convey non-potable discharges from individual facilities to a connection with the non-potable main. This term also refers to pipelines that convey non-potable water from a pressurized irrigation system, reclaimed wastewater system, and other non-potable systems to individual consumers. ()

4954. Nontransient Noncommunity Water System. A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. (12-10-92)

505. Nuclear Facility. Factories, processing plants or other installations in which fissionable material is processed, nuclear reactors are operated, or spent (used) fuel material is processed, or stored. (12-10-92)

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546. Operating Shift. That period of time during which water system operator decisions that affect public health are necessary for proper operation of the system. (4-5-00)

527. Owner/Purveyor of Water/Supplier of Water. The person, company, corporation, association, or other organizational entity which holds legal title to the public water system, who provides, or intends to provide, drinking water to the customers and/or is ultimately responsible for the public water system operation. (4-6-05)

538. Peak Hourly Flow. The highest hourly flow during any day. (12-10-92)

549. Person. A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity. (12-10-92)

5560. Pesticides. Substances which meet the criteria for regulation pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and any regulations adopted pursuant to FIFRA. For example, pesticides include, but are not limited to insecticides, fungicides, rodenticides, herbicides, and algacides. (12-10-92)

61. Potable Water Mains. Pipelines that deliver potable water to multiple service connections. ()

62. Potable Water Services. Pipelines that convey potable water from a connection to the potable water main to individual consumers. ()

563. Public Notice. The notification of public water system consumers of information pertaining to that water system including information regarding water quality or compliance status of the water system. (12-10-92)

5764. Public Drinking Water System. A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system". (4-6-05)

5865. Public Water System/Water System/System. Means "public drinking water system". (4-5-00)

66. Quasi-Municipal Corporation. A public entity, other than community government, created or authorized by the legislature to aid the state in, or to take charge of, some

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public or state work for the general welfare. For the purpose of these rules, this term refers to drinking water districts. ()

5967. Repeat Compliance Period. Any subsequent compliance period after the initial compliance period. (12-10-92)

608. Responsible Charge (RC). Responsible Charge means, active, daily on-site and/or on-call responsibility for the performance of operations or active, on-going, on-site and on-call direction of employees and assistants. (4-5-00)

649. Responsible Charge Operator. An operator of a public drinking water system, designated by the system owner, who holds a valid license at a class equal to or greater than the drinking water system classification, who is in responsible charge of the public drinking water system. (4-6-05)

70. Reviewing Authority. For those projects requiring preconstruction approval by the Department, the Department is the reviewing authority. For those projects allowing for preconstruction approval by others, pursuant to Subsection 551.04.a. of these rules, the qualified licensed professional engineer is also the reviewing authority. ()

6271. Sampling Point. The location in a public water system from which a sample is drawn. (12-10-92)

6372. Sanitary Defects. Any faulty structural condition which may allow the water supply to become contaminated. (12-10-92)

6473. Sanitary Survey. An onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water. The sanitary survey will include, but is not limited to the following elements: (4-5-00)

- a. Source; (4-5-00)
- b. Treatment; (4-5-00)
- c. Distribution system; (4-5-00)
- d. Finished water storage; (4-5-00)
- e. Pumps, pump facilities, and controls; (4-5-00)
- f. Monitoring and reporting and data verification; (4-5-00)
- g. System management and operation; and (4-5-00)
- h. Operator compliance with state requirements. (4-5-00)

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6574. SDWIS-State. An acronym that stands for “Safe Drinking Water Information System-State Version”. It is a software package developed under contract to the U.S. Environmental Protection Agency and used by a majority of U.S. states to collect, maintain, and report data about regulated public water systems. See also the definition of DWIMS. (5-3-03)

6675. Significant Deficiency. As identified during a sanitary survey, any defect in a system’s design, operation, maintenance, or administration, as well as any failure or malfunction of any system component, that the Department or its agent determines to cause, or have potential to cause, risk to health or safety, or that could affect the reliable delivery of safe drinking water. See also the definition of Health Hazards. (5-3-03)

676. Special Irrigation District. An irrigation district in existence prior to May 18, 1994 that provides primarily agricultural service through a piped water system with only incidental residential or similar use where the system or the residential or similar users of the system comply with the exclusion provisions in Section 1401(4)(B)(i)(II) or (III) of the Safe Drinking Water Act. (4-6-05)

6877. Spring. A source of water which flows from a laterally percolating water table's intersection with the surface or from a geological fault that allows the flow of water from an artesian aquifer. (12-10-92)

6978. Substitute Responsible Charge Operator. An operator of a public drinking water system who holds a valid license at a class equal to or greater than the drinking water system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. (4-6-05)

709. Surface Water System. A public water system which is supplied by one (1) or more surface water sources or groundwater sources under the direct influence of surface water. Also called subpart H systems in applicable sections of 40 CFR Part 141. (4-5-00)

7480. Specific Ultraviolet Absorption (SUVA). SUVA means Specific Ultraviolet Absorption at two hundred fifty-four (254) nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample’s ultraviolet absorption at a wave length of two hundred fifty-four (254) nm (UV254) (in m^{-1}) by its concentration of dissolved organic carbon (DOC) (in mg/l). (4-5-00)

7281. Total Organic Carbon (TOC). Total organic carbon in mg/l measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two (2) significant figures. (4-5-00)

7382. Transient Noncommunity Water System. A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. (10-1-93)

7483. Treatment Facility. Any place(s) where a public drinking water system or

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nontransient noncommunity water system alters the physical or chemical characteristics of the drinking water. Chlorination may be considered as a function of a distribution system. (4-5-00)

7584. Turbidity. A measure of the interference of light passage through water, or visual depth restriction due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. (12-10-92)

7685. Uncovered Finished Water Storage Facility. An uncovered tank, reservoir, or other facility that is used to store water that will undergo no further treatment except residual disinfection. (5-3-03)

7786. Unregulated Contaminant. Any substance that may affect the quality of water but for which a maximum contaminant level or treatment technique has not been established. (12-10-92)

787. Variance. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only when the system demonstrates to the satisfaction of the Department that the raw water characteristics prevent compliance with the MCL or requirement after installation of the best available technology or treatment technique and the deferment does not cause an unreasonable risk to public health. (12-10-92)

7988. Very Small Public Drinking Water System. A Community or Nontransient Noncommunity Public Water System that serves five hundred (500) persons or less and has no treatment other than disinfection or has only treatment which does not require any chemical treatment, process adjustment, backwashing or media regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion exchangers). (4-5-00)

809. Volatile Organic Chemicals (VOCs). VOCs are lightweight organic compounds that vaporize or evaporate easily. (10-1-93)

8190. Vulnerability Assessment. A determination of the risk of future contamination of a public drinking water supply. (12-10-92)

8291. Waiver. (12-10-92)

a. For the purposes of these rules, except Sections 550 through 552, “waiver” means the Department approval of a temporary reduction in sampling requirements for a particular contaminant. (10-1-93)

b. For purposes of Sections 550 through 552, “waiver” means a dismissal of any requirement of compliance. (12-10-92)

c. For the purposes of Section 010, “waiver” means the deferral of a fee assessment for a public drinking water system. (10-1-93)

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8392. Water for Human Consumption. Water that is used by humans for drinking, bathing for purposes of personal hygiene (including hand-washing), showering, cooking, dishwashing, and maintaining oral hygiene. In common usage, the terms “culinary water”, “drinking water,” and “potable water” are frequently used as synonyms. (5-3-03)

8493. Water Main. A pipe within a public water system which is under the control of the system operator and conveys water to two (2) or more service connections. The collection of water mains within a given water supply is called the distribution system. (5-3-03)

94. Water Main Extension. As used in Subsection 551.04, an extension of the distribution system of an existing public water system that does not require a booster pumping station and is intended to increase the service area of the water system. ()

895. Well House. A structure containing important water system components, such as a well, hydropneumatic tank, booster pump, pump controls, flow meter, distribution line, or a treatment unit. Well houses are often called pump houses in common usage, even though in modern construction these structures may not contain either a well or a pump. These terms are used interchangeably in national standards and trade publications. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

013. Use Of Guidance.

Guidance documents referenced in these rules are to be used to assist both designers and reviewers in determining a reasonable way to achieve compliance with the rules. Nothing in these rules makes the use of a particular guidance or guidance document mandatory. If the plans and specifications comply with applicable facility standards and design standards as set out in these rules, Section 39-118, Idaho Code, requires that the reviewing authority not substitute his or her judgment for that of the design engineer concerning the manner of compliance. If the design engineer needs assistance as to how to comply with a particular rule, the design engineer may use the referenced guidance documents for that assistance. However, the design engineer may also use other guidance or provide documentation to substantiate his or her own professional judgment. ()

996014.ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality.” (3-15-02)

997015.CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 3, Title 9, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 9-342A, Idaho Code, and IDAPA 58.01.21, “Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality”. (3-15-02)

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016. Office Hours -- Mailing Address And Street Address.

The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8 a.m. to 5 p.m. Monday through Friday. ()

~~013017.~~ -- 049.(RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

549. Facility And Design Standards - DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY OF PUBLIC DRINKING WATER SYSTEMS.

No person shall proceed, or cause to proceed, with construction of a new community or nontransient, noncommunity drinking water system until it has been demonstrated to the Department that the water system will have adequate technical, financial, and managerial capacity, as defined in Section 003 of these rules. Demonstration of capacity shall be submitted to the Department prior to or concurrent with the submittal of plans and specifications, as required in Section 39-118, Idaho Code, and Subsection 551.04 of these rules. The Department shall issue its approval of the new system capacity demonstration in writing. (+4-5-00)()

01. Technical Capacity. In order to meet this requirement, the public water system shall submit documentation to demonstrate the following: (4-5-00)

a. The system meets the relevant design, construction, and operating requirements of Sections 550, 551, and 552 of these rules; (4-5-00)

b. The system has an adequate and consistent source of water; (4-5-00)

c. A plan is in place to protect the water source and deal with emergencies; (4-5-00)

d. A plan exists for replacement or improvement of infrastructure as necessary; and (4-5-00)

e. The system has trained personnel with an understanding of the technical and operational characteristics of the system. (5-3-03)

02. Financial Capacity. A demonstration of financial capacity must include but is not limited to the following information: (4-5-00)

a. Documentation that organizational and financial arrangements are adequate to construct and operate the public water system in accordance with these rules (see Sections 550, 551, and 552). This information can be provided by submitting estimated construction, operation, and maintenance costs, letters of credit, or other access to financial capital through public or private sources and, if available, a certified financial statement; (4-5-00)

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b. Demonstration of revenue sufficiency, that includes but is not limited to billing and collection procedures, a proposed rate structure which is affordable and ensures availability of operating funds, revenues for depreciation and reserves, and the ability to accrue a capital replacement fund. A preliminary operating budget shall be provided; and (4-5-00)

c. Adequate fiscal controls must be demonstrated. (4-5-00)

03. Managerial Capacity. In order to demonstrate adequate managerial capacity, the owner and/or operator of a new drinking water system shall submit at least the following information to the Department: (4-5-00)

a. Clear documentation of legal ownership and any plans that may exist for transfer of that ownership on completion of construction or after a period of operation; (4-5-00)

b. The name, address, and telephone number of the person who will be accountable for ensuring that the water system is in compliance with these rules; (4-5-00)

c. The name, address, and telephone number of the system operator; (4-5-00)

d. A description of the manner in which the water system will be managed. By-laws, restrictive covenants, articles of incorporation, or procedures and policy manuals which describe the management organization structure are a means of providing this information; (4-5-00)

e. A description of staffing should be provided, including training, experience, certification or licensing, and continuing education completed by the water system staff; (4-5-00)

f. An explanation of how the water system will establish and maintain effective communications and relationships between the water system management, its customers, professional service providers, and any applicable regulatory agencies; and (4-5-00)

g. Evidence of planning for future growth, equipment repair and maintenance, and long term replacement of system components. (4-5-00)

04. Submittal Form. The Department shall provide a standard form to be used in preparing a new system capacity demonstration. (4-5-00)

05. Expanding Systems. A public water system which comes into existence as a result of growth in population or number of service connections within a previously unregulated system will be considered a new system under these rules and is subject to all design, construction and operating requirements herein. (4-5-00)

06. Consolidation. In demonstrating new system capacity, the owner of the proposed new system must investigate the feasibility of obtaining water service from an established public water system. If such service is available, but the owner elects to proceed with an independent system, the owner must explain why this choice is in the public interest in terms of environmental protection, affordability to water users, and protection of public health. (4-5-00)

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07. Exclusion. New public water systems which are public utilities as defined in Sections 61-104 (Corporation), 61-124 (Water System), 61-125 (Water Corporation), and 61-129 (Public Utility), Idaho Code, must meet the regulatory requirements of the Idaho Public Utilities Commission (IPUC) in Chapter 1, Title 61, Idaho Code, Public Utilities Law, and IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission". Such water systems will not be required to meet any requirements of this Section which are in conflict with the provisions and requirements of the IPUC. (4-5-00)

550. Facility And Design Standards - DESIGN STANDARDS FOR PUBLIC DRINKING WATER SYSTEMS.

01. System Design. Unless otherwise specified by the Department, the design of new drinking water systems, or modifications to existing, public drinking water systems shall be in conformance with these rules and "Recommended Standards for Water Works, A Report of the Water Supply Committee of the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers," ~~as set forth in Subsection 002.02.e~~ except Parts One (1) and Eight (8). (4-6-05)(____)

02. Materials. Unless otherwise authorized by the Department on a site-specific basis, materials that are used to construct public drinking water systems and have water contact surfaces must comply with applicable AWWA standards and be certified by an accredited ANSI certification body to meet ANSI/NSF Standard 53, 58, or 61. Corrosion control shall be taken into account during all aspects of public water system design. (4-6-05)

03. Wells. Any supplier of water for a public water system served by one (1) or more wells shall ensure that the following requirements are met: (12-10-92)

a. Prior to drilling, the site of a PWS well must be approved in writing by the Department. The Department shall require the supplier of water to submit a well site evaluation report that takes into account the proposed size, depth, and location of the well. The evaluation may include, but is not limited to the following types of information: (5-3-03)

i. An evaluation of the potability and quality of anticipated groundwater. (5-3-03)

ii. Identification of the known aquifers and the extent of each aquifer, based on the stratigraphy, sedimentation, and geologic structure beneath the proposed well site. (5-3-03)

iii. An estimate of hydrologic and geologic properties of each aquifer and confining layers. (5-3-03)

iv. Prediction of the sources of water to be extracted by the well and the drawdown of existing wells, springs, and surface water bodies that may be caused by pumping the proposed well. This prediction may be based on analytical or numerical models. (5-3-03)

v. Demonstration of the extent of the capture zone of the well, based on the well's design discharge and on aquifer geology, using estimates of hydraulic conductivity and storativity.

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(5-3-03)

vi. Description of potential sources of contamination within five hundred (500) feet of the well site. (5-3-03)

b. Each well shall be located a minimum of fifty (50) feet from any potential source of contamination and no closer to specified sources of contamination than set forth in Subsection 900.01; in vulnerable settings, the Department may require engineering or hydrologic analysis to determine if the required setback distance is adequate to prevent contamination; (5-3-03)

c. Each well shall comply with the minimum Well Construction Standards and with the permitting requirements of the Idaho Water Resources Board, as set forth in Subsection 002.02.f.; except that no public water system well shall have less than fifty-eight (58) feet of annular seal of not less than two (2) inches thickness, unless: (5-3-03)

i. It can be demonstrated to the Department's satisfaction that there is a confining layer at lesser depth that is capable of preventing unwanted water from reaching the intake zone of the well; or (5-3-03)

ii. The best and most practical aquifer at a particular site is less than fifty-eight (58) feet deep; or; (5-3-03)

iii. The Department specifies a different annular seal depth based on local hydrologic conditions. (5-3-03)

d. All tools, bits, pipe, and other materials to be inserted in the borehole must be cleaned and disinfected in accordance with the Well Construction Standards and permitting requirements of the Idaho Water Resources Board, as set forth in Subsection 002.02.f. This applies to new well construction and repair of existing wells. (5-3-03)

e. Upon completion of a groundwater source, and prior to its use as drinking water, the following information and data must be submitted by the water system to the Department: (5-3-03)

i. A copy of all well logs; (12-10-92)

ii. Results of test pumping, as specified in Subsection 550.03.f.; (5-3-03)

iii. As constructed plans showing at least the following: (12-10-92)

(1) Annular seal, including depth and sealant material used and method of application; (5-3-03)

(2) Casing that meets the requirements set forth in Section 3.2.5.4 of Recommended Standards for Water Works, including weights and thicknesses specified in Table 1 of that publication; (5-3-03)

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(3) Casing perforations, results of sieve analysis used in designing screens installed in sand or gravel aquifers, gravel packs; and (5-3-03)

(4) Pump location; and (12-10-92)

(5) For community water systems, a permanent means for measuring water level. All equipment required for conducting water level measurements shall be purchased and made available to the water system operator at the time well construction is completed. (5-3-03)

iv. Other information as may be specified by the Department. (12-10-92)

v. Sampling results for iron, manganese, corrosively, and other secondary contaminants specified by the Department. Other monitoring requirements are specified in Subsection 551.01. (5-3-03)

f. Test pumping. Upon completion of a groundwater source, test pumping shall be conducted in accordance with the following procedures to meet the specified requirements: (12-10-92)

i. The well shall be test pumped at the desired yield (design capacity) of the well for at least twenty-four (24) consecutive hours after the drawdown has stabilized. Alternatively, the well may be pumped at a rate of one hundred fifty percent (150%) of the desired yield for at least six (6) continuous hours after the drawdown has stabilized. In either case, if the drawdown does not stabilize, the pumping must continue for at least seventy-two (72) consecutive hours. The field pumping equipment must be capable of maintaining a constant rate of discharge during the test. Discharge water must be piped an adequate distance to prevent recharge of the well during the test. If the well fails the test protocol, the well design shall be re-evaluated and submitted to the Department for approval. (5-3-03)

ii. Fifteen (15) minutes after the start of the test pumping, the sand content of a new well shall not be more than five (5) parts per million. Sand production shall be measured by a centrifugal sand sampler or other means acceptable to the Department. If sand production exceeds five (5) ppm, the well shall be screened gravel packed, and re-developed. (5-3-03)

iii. The following data shall be provided: (5-3-03)

(1) Static water level in the well prior to test pumping; (5-3-03)

(2) Well yield in gpm and duration of the pump test, including a discussion of any discrepancy between the desired yield and the yield observed during the test; (5-3-03)

(3) Water level in the well recorded at regular intervals during pumping; (5-3-03)

(4) Profile of water level recovery from the pumping level projected to the original static water level. (5-3-03)

(5) Depth at which the test pump was positioned in the well; (5-3-03)

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- (6) Test pump capacity and head characteristics; (5-3-03)
- (7) Sand production data. (5-3-03)
- (8) Any available results of analysis based on the drawdown and recovery test pertaining to aquifer properties, sustained yield, and boundary conditions affecting drawdown. (5-3-03)
- iv. The Department may allow the use of other pump test protocols that are generally accepted by engineering firms with specialized experience in well construction, by the well drilling industry, or as described in national standards (such as ANSI/AWWA A100-97), as long as the minimum data specified in Subsection 550.03.f.iii. are provided. The Department welcomes more extensive data about the well, such as step-drawdown evaluations used in determining well capacity for test pumping purposes, zone of influence calculations, and any other information that may be of use in source protection activities or in routine water system operations. (5-3-03)
- v. Where aquifer yield, sustainability, or water quality are questionable, the Department, at its discretion, may require additional site specific investigations that could include test well construction, long-term pumping tests, or other means to demonstrate that the aquifer is sufficient to meet the long-term water requirements of the project. (____)
- g. A smooth-nosed sample tap shall be provided on the discharge piping from every well at a point where pressure is maintained but prior to any treatment. Any threaded taps installed in the wellhouse must be equipped with an appropriate backflow prevention device. (5-3-03)
- h. The discharge line shall be equipped with the necessary valves and appurtenances to allow a well to be pumped to waste at the design capacity of the well via an approved air gap at a location prior to the first service connection; (4-6-05)
- i. A pressure gauge shall be provided at all installations; (12-10-92)
- j. A totalizing flow meter shall be installed on the discharge line of each well. An accessible check valve shall be installed above ground in the discharge line of each well; (5-3-03)
- k. All wells except flowing artesian wells shall be vented, with the open end of the vent screened and terminated downward at least eighteen (18) inches above the final ground surface. (4-6-05)
- l. The following requirements apply to well casings and seals: (12-10-92)
- i. Casings shall extend a minimum of eighteen (18) inches above the final ground surface and, if the well is located within a well house, twelve (12) inches above the well house floor. (4-6-05)

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ii. Wells shall be cased and sealed in such a manner that surface water cannot enter the well. (12-10-92)

iii. A watertight seal shall be provided at the top of the well casing, and shall not allow water to enter the well. (12-10-92)

iv. Wells completed in unconsolidated water bearing formations shall be constructed to prevent caving of the walls of the well and sand pumping. Screens and/or gravel packs shall be provided where fine grained materials such as sands are being developed as the source of water. (12-10-92)

m. The following requirements apply to well houses as defined in Section 003, unless it can be shown that some or all of these requirements are not needed to protect the combination of system components in a given structure: (4-6-05)

i. Well houses shall be protected from flooding and be adequately drained. The floor surface shall be at least six (6) inches above the final ground surface. An electrically powered ventilation fan or automated air flow system shall be provided to remove excess heat and moisture during peak summer temperatures. If the well operates year round, a thermostatically regulated heater shall also be installed to prevent moisture buildup during cold weather. In all cases, measures must be taken to minimize corrosion of metallic and electrical components. (4-6-05)

ii. Well houses shall be provided with a locking door or access to prohibit unauthorized entrance. Plans and specifications for well houses must provide enough detail to enable the reviewing engineer to determine that the facility is secure, safe, accessible, and that it conforms to electrical and plumbing codes. (5-3-03)

iii. Well houses shall be kept clean and in good repair and shall not be used to store toxic or hazardous materials. (12-10-92)

iv. Floor drains shall not be connected to sewers, storm drains, chlorination room drains, or any other source of contamination. (12-10-92)

v. Sumps for well house floor drains shall not be closer than thirty (30) feet from the well. (12-10-92)

vi. Pitless adapters or pitless units: (12-10-92)

(1) Shall be of the type marked approved by the National Sanitation Foundation or Pitless Adapter Division of the Water Systems Council. (12-10-92)

(2) Shall be designed, constructed and installed to be watertight including the cap, cover, casing extension and other attachments. (12-10-92)

(3) Shall be field tested for leaks before being put into service. The procedure outlined in "Manual of Individual and Non-Public Water Supply Systems," as set forth in Subsection 002.02.d., or other procedure approved by the Department shall be followed. (5-3-03)

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n. Wells shall not be located in pits. Exceptions to Subsection 550.03.1. will be granted by the Department if the well was constructed prior to November 5, 1964, and the installation is constructed or reconstructed in accordance with the requirements of the Department to provide watertight construction of pit walls and floors, floor drains and acceptable pit covers. (12-10-92)

o. A well lot shall be provided for wells constructed after November 1, 1977. The well lot shall be owned in fee simple by the supplier of water or controlled by lease with a term of not less than the useful life of the well and be large enough to provide a minimum distance of fifty (50) feet between the well and the nearest property line. (12-10-92)

p. New community water systems served by ground water and constructed after July 1, 1985, or existing community water systems served by ground water that are substantially modified after July, 2002, shall have a minimum of two (2) sources if they are intended to serve more than twenty-five (25) homes or equivalent. With any source out of service, the remaining source or sources shall be capable of providing either the peak hour demand of the system or maximum daily pumping demand plus equalization storage. The Department shall consider a system to be “substantially modified” when there is a combined increase of twenty-five percent (25%) or more above the system’s existing configuration in the following factors: (4-6-05)

i. Population served or number of service connections; (5-3-03)

ii. Length of water mains; (5-3-03)

iii. Peak or average water demand per connection. (5-3-03)

q. No pesticides, herbicides, or fertilizers shall be applied to a well lot without prior approval from the Department. (12-10-92)

r. No pesticides, herbicides, fertilizers, portable containers of petroleum products, or other toxic or hazardous materials shall be stored on a well lot, except that: (5-3-03)

i. An internal combustion engine to drive either a generator for emergency standby power or a pump to provide fire flows, and an associated fuel tank, may be placed on the well lot. (5-3-03)

ii. A propane or natural gas powered generator is preferable to reduce risk of fuel spillage. (5-3-03)

iii. If a diesel or gasoline-fueled engine is used, the fuel tank and connecting piping must be approved by the Underwriter’s Laboratory, Inc., double-walled, meet the requirements of the local fire jurisdiction, and include both spill prevention and overfill protection features. The tank must be above ground and may be contained within the structural base of the generator unit. A licensed water system operator shall be present during filling of the tank following a period of usage, or during periodic extraction and replacement of outdated fuel. (4-6-05)

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iv. Should the internal combustion engine be located within the well house, the floor of the well house shall be constructed so as to contain all petroleum drips and spills so that they will not be able to reach the floor drain(s). Engine exhaust shall be directly discharged outside the well house. (5-3-03)

v. A spill containment structure shall surround all fuel tanks and be sized to contain at least one hundred ten percent (110%) of the fuel tank volume. The Department may require additional containment capacity in settings where accumulation of snow, ice, or rain water could be expected to diminish the usable capacity of the structure. (4-6-05)

04. Springs. For new spring sources, the Department may require a site evaluation report as set forth for wells in Subsection 550.03.a. Any supplier of water for a public water system served by one (1) or more springs shall ensure that the following requirements are met: (5-3-03)

a. Springs shall be housed in a permanent structure and protected from contamination including the entry of surface water, animals, and dust; (12-10-92)

b. A sample tap shall be provided; (12-10-92)

c. A flow meter or other flow measuring device shall be provided; and (12-10-92)

d. The entire area within a one hundred (100) foot radius of the spring box shall be owned by the supplier of water or controlled by a long term lease, fenced to prevent trespass of livestock and void of buildings, dwellings and sources of contamination. Surface water and drainage ditches shall be diverted from this area. (5-3-03)

05. Surface Sources and Groundwater Sources Under the Direct Influence of Surface Water. (10-1-93)

a. Design Criteria. (12-1-92)

i. The system shall ensure that filtration and disinfection facilities for surface water or groundwater directly influenced by surface water sources are designed, constructed and operated in accordance with all applicable engineering practices designated by the Department. (12-10-92)

ii. Filtration facilities (excluding disinfection) shall be designed, constructed and operated to achieve at least two (2) log removal of *Giardia lamblia* cysts and one (1) log removal of viruses, except as allowed under Subsection 550.05.b.iii.; and (10-1-93)

iii. Disinfection facilities shall be designed, constructed and operated so as to achieve at least one half (0.50) log inactivation of *Giardia lamblia* cysts; and (10-1-93)

(1) Two (2) log inactivation of viruses if using conventional and slow sand filtration technology; or (12-10-92)

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- (2) Three (3) log inactivation of viruses if using direct and diatomaceous earth filtration technology; or (12-10-92)
- (3) Four (4) log inactivation of viruses if using alternate filtration technology. (12-10-92)
- (4) Four (4) log inactivation of viruses if filtration treatment is not used. (10-1-93)
- iv. Higher levels of disinfection than specified under Subsection 550.05.a.iii. may be required by the Department in order to provide adequate protection against giardia and viruses. (10-1-93)
- v. For plants constructed after December 31, 1992, each filter unit must be capable of filter to waste. (12-10-92)
- vi. For plants constructed prior to December 31, 1992, each filter unit must be capable of filter to waste unless the system demonstrates through continuous turbidity monitoring or other means acceptable to the Department that water quality is not adversely affected following filter backwashing, cleaning or media replacement. (12-10-92)
- vii. For conventional, direct, membrane, and diatomaceous earth filtration technology, equipment must be provided to continuously measure the turbidity of each filter bed. (5-3-03)
- viii. Equipment must be provided and operated for continuous measurement of disinfectant residual prior to entry to the distribution system, unless the system serves fewer than three thousand three hundred (3,300) people. (12-10-92)
- ix. Diatomaceous earth filtration facilities shall include an alternate power source with automatic startup and alarm, or be designed in a manner to ensure continuous operation. (12-10-92)
- b.** Filtration technology. (12-10-92)
 - i. The purveyor shall select a filtration technology acceptable to the Department. (12-10-92)
 - ii. Conventional, direct, membrane, slow sand and diatomaceous earth filtration technologies are generally acceptable to the Department on a case-by-case basis. (5-3-03)
 - iii. Alternate filtration technologies may be acceptable if the purveyor demonstrates all of the following to the satisfaction of the Department: (12-10-92)
 - (1) That the filtration technology: (12-10-92)
 - (a) Is certified and listed by the National Sanitation Foundation (NSF) under Standard 53, Drinking Water Treatment Units - Health Effects, as achieving the NSF criteria for cyst reduction; or (12-10-92)

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(b) Removes or inactivates at least ninety-nine (99%) percent (two (2) logs) of *Giardia lamblia* cysts or *Giardia lamblia* cyst surrogate particles in a challenge study acceptable to the Department. (12-10-92)

(2) Using field studies or other means acceptable to the Department, that the filtration technology: (12-10-92)

(a) In combination with disinfection treatment, consistently achieves at least ninety-nine and nine tenths percent (99.9%) (three (3) logs) removal or inactivation of *Giardia lamblia* cysts and ninety-nine and ninety-nine hundredths percent (99.99%) (four (4) logs) removal or inactivation of viruses; and (5-3-03)

(b) Meets the turbidity performance requirements of 40 CFR 141.73 (b). (12-10-92)

c. Pilot Studies. The system shall conduct pilot studies in accordance with the following requirements for all proposed filtration facilities and structural modifications to existing filtration facilities, unless the Department modifies the requirements in writing: (12-10-92)

i. The system shall obtain the Department's approval of the pilot study plan before the pilot filter is constructed and before the pilot study is undertaken. (12-10-92)

ii. The design and operation of the pilot study shall be overseen by a licensed professional engineer. (12-10-92)

iii. The system's pilot study plan shall identify at a minimum: (12-10-92)

(1) The objectives of the pilot study; (12-10-92)

(2) Pilot filter design; (12-10-92)

(3) Water quality and operational parameters to monitor; (12-10-92)

(4) Amount of data to collect; and (12-10-92)

(5) Qualifications of the pilot plant operator. (10-1-93)

iv. The system shall ensure that the pilot study is: (12-10-92)

(1) Conducted to simulate conditions of the proposed full-scale design; (12-10-92)

(2) Conducted for at least twelve (12) consecutive months or for a shorter period upon approval by the Department; (5-3-03)

(3) Conducted to evaluate the reliability of the treatment system to achieve applicable water quality treatment criteria specified for filtration systems in 40 CFR 141.72 and 40 CFR

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141.73; and (12-10-92)

(4) Designed and operated in accordance with good engineering practices documented in references acceptable to the Department. (12-10-92)

d. New systems constructed after July 1, 1985, are required to install redundant disinfection components as required to maintain constant application of disinfectant whenever water is being delivered to the distribution system. (5-3-03)

06. Distribution System. Any supplier of water for a public water system shall ensure that the distribution system complies with all of the following requirements: (12-10-92)

a. The distribution system shall be protected from contamination and be designed to prevent contamination by steam condensate or cooling water from engine jackets or other heat exchange devices. (12-10-92)

b. All pumps connected directly to the distribution system shall be designed in conjunction with a water pressure relief valve of type, size, and material approved by the Department unless the Department approves another method that will prevent excessive pressure development. (5-3-03)

c. All source pumps and booster pumps connected directly to the distribution system shall have an instantaneous and totalizing flow meter unless deemed unnecessary by the Department in a particular application. The Department may require larger water systems to provide a means of automatically recording the total water pumped. (4-6-05)

d. Booster pumps must comply with the following: (12-10-92)

i. In-line booster pumps shall maintain an operating pressure that is consistent with the requirements specified in Subsection 552.01, and shall be supplied with an automatic cutoff when intake pressure is less than or equal to five (5) psi. (5-3-03)

ii. Booster pumps with a suction line directly connected to any storage reservoirs shall be protected by an automatic cutoff to prevent pump damage and avoid excessive reservoir drawdown. (4-6-05)

iii. Buildings enclosing booster pump stations shall be provided with an electrically powered ventilation fan or automated air flow system to remove heat and moisture during peak summer temperatures. If the facility is operated year round, a thermostatically regulated heater shall be installed to prevent moisture buildup during cold weather. (5-3-03)

e. Pipe and jointing materials ~~and standards will~~ comply with the ~~following~~ standards set forth in Subsection 550.02. Pipe shall be manufactured of materials resistant internally and externally to corrosion and not imparting tastes, odors, color, or any contaminant into the system. Where distribution systems are installed in areas of ground water contaminated by organic compounds: (12-10-92)(____)

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i. ~~Pipe, packing and jointing materials shall be manufactured, installed and tested in conformance with the current standards of the American Water Works Association, as set forth in Subsection 002.02.k., or other standards approved in writing by the Department. which do not allow permeation of the organic compounds shall be used; and~~ (4-6-05)(____)

ii. ~~Pipe shall be manufactured of materials resistant internally or externally to corrosion, and not imparting tastes, odors, color or any contaminant into the system. Non-permeable materials shall be used for all portions of the system including pipe, joint materials, hydrant leads, and service connections.~~ (12-10-92)(____)

iii. ~~All distribution system appurtenances shall comply with AWWA Standards, as set forth in Subsection 002.02.k.~~ (4-6-05)

f. Fire hydrants shall not be connected to water mains smaller than six (6) inches in diameter, and fire hydrants shall not be installed unless fireflow volumes are available. If fire flow is not provided, water mains shall be no less than three (3) inches in diameter. Any departure from this minimum standard shall be supported by hydraulic analysis and detailed projections of water use. (5-3-03)

g. ~~Water and non-potable water mains shall be separated by a horizontal distance no less than ten (10) feet. In any instance where such separation is not achievable, the following standards shall be met~~ The relation between potable and non-potable water mains shall be as follows: (5-3-03)(____)

i. ~~The water and non-potable water mains shall be separated by at least six (6) horizontal feet measured between the outside walls of the pipes, and the non-potable main shall be constructed to water main standards; and~~ Non-potable mains in relation to potable water mains. (4-6-05)(____)

(1) Parallel installation requirements: (____)

(a) Greater than ten (10) feet separation: no conditions. (____)

(b) Ten (10) feet to six (6) feet separation: separate trenches, with potable main above non-potable main, and non-potable main to be constructed with potable water class pipe. (____)

(c) Less than six (6) feet separation: design engineer to submit data to the Department for review and approval showing that this installation will protect public health and the environment and non-potable main to be constructed of potable water class pipe. (____)

(d) Potable and non-potable water mains shall never be installed in the same trench. (____)

(2) Non-potable mains crossing potable water mains requirements: (____)

(a) Eighteen (18) inches or more vertical separation with potable water main above non-potable main. Non-potable main joint to be as far as possible from the potable water main.

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(b) Less than eighteen (18) inches vertical separation: Non-potable main constructed with potable water class pipe and non-potable main joint as far as possible from potable water main, or sleeve non-potable pipe with potable water class pipe for ten (10) feet either side of crossing. ()

ii. ~~The water main shall be a minimum of eighteen (18) inches above the non-potable water main.~~ Non-potable services in relation to potable services and non-potable services in relation to water mains. (4-6-05)()

(1) Parallel installation requirements: ()

(a) Greater than six (6) feet separation: no conditions. ()

(b) Less than six (6) feet separation: design engineer to submit data that this installation will protect public health and the environment and non-potable service constructed with potable water class pipe. ()

(c) Never in the same trench. ()

(2) Non-potable services crossing potable water services or potable water mains requirements: ()

(a) Eighteen (18) inches or more vertical separation with potable water service or main above non-potable service; non-potable joint as far as possible from crossing. ()

(b) Less than eighteen (18) inches vertical separation or potable water service or main below non-potable service: non-potable service or main constructed with potable water class pipe and non-potable joint as far as possible from crossing; or, sleeve non-potable pipe with potable water class pipe for ten (10) feet either side of crossing. ()

~~h.~~ The requirements for vertical separation of water and non-potable water mains are as follows: (4-6-05)

i. ~~At any point where the non-potable water and water mains cross, they shall be separated by a vertical distance of no less than eighteen (18) inches.~~ (5-3-03)

ii. ~~At any point where the non-potable water main crosses above the water main, the non-potable water main shall be supported to prevent settling.~~ (5-3-03)

iii. ~~At any point where the non-potable water and water mains cross, the water main shall be centered at the crossing so that the joints will be an equal distance and as far as possible from the non-potable water main.~~ (5-3-03)

iv. ~~If the eighteen (18) inch vertical separation cannot be maintained, the non-potable water main shall be constructed of materials conforming to water main standards.~~ (4-6-05)

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~~v. In lieu of constructing or reconstructing the non-potable water main either the non-potable water main or water main may be protected by a sleeving material acceptable to the Department for a distance of ten (10) horizontal feet on both sides of the crossing. (4-6-05)~~

~~h. A minimum horizontal distance of twenty-five (25) feet shall be maintained between any water distribution pipe and a septic tank and subsurface sewage disposal system and any water distribution pipe. (12-10-92)()~~

~~ji. All dead end water mains shall be equipped with a means of flushing and shall be flushed at least semiannually at a water velocity of five two and one-half (2.5) feet per second. (5-3-03)()~~

~~i. Dead ends shall be minimized by making appropriate tie-ins whenever practical in order to provide increased reliability of service and reduce head loss. ()~~

~~ii. No water main flushing device shall be directly connected to any sewer. ()~~

~~ki. Leaking water mains shall be repaired or replaced upon discovery and disinfected in accordance with American Water Works Association standards as set forth in Subsection 002.02.k. (4-6-05)~~

~~k. Water mains shall be separated by at least five (5) feet from buildings, industrial facilities, and other permanent structures. (5-3-03)~~

~~mi. All new public water systems shall include a meter vault at each service connection. A lockable shut-off valve shall be installed in the meter vault. (5-3-03)~~

~~mm. All new public water systems that are constructed where topographical relief may affect water pressure at the customers' premises shall provide the Department with an analysis which demonstrates that the pressure at each designated building site will be at least forty (40) psi, based on dynamic pressure in the main, as set forth in Subsections 552.01.b.i. and ii., plus a static compensation from the elevation of the main to the elevation of each building site. (5-3-03)~~

~~i. If forty (40) psi cannot be provided at each designated building site, the Department may require that reasonable effort be made to provide notification to existing and potential customers of the expected pressure. (5-3-03)~~

~~ii. The Department will not authorize a service connection at any designated building site where analysis indicates that pressure will be less than twenty (20) psi static pressure (or twenty-six point five (26.5) psi for two (2) story buildings). (5-3-03)~~

~~n. A sufficient number of valves shall be provided on water mains to minimize inconvenience and sanitary hazards during repairs. ()~~

~~o. Automatic air relief valves shall be equipped with a means of backflow protection. ()~~

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d. Surface water crossings, whether over or under water, shall be constructed as follows: ()

i. Above water crossings: the pipe shall be adequately supported and anchored, protected from damage and freezing, and shall be accessible for repair or replacement. ()

ii. Under water crossings: A minimum cover of two (2) feet shall be provided over the pipe. When crossing a water course that is greater than fifteen (15) feet in width, the following shall be provided: ()

(1) The pipe shall be of special construction, having flexible, restrained, or welded water-tight joints; and ()

(2) Valves shall be provided at both ends of water crossings so that the section can be isolated for testing or repair; the valves shall be easily accessible and not subject to flooding; and ()

(3) Permanent taps or other provisions to allow insertion of a small meter to determine leakage and obtain water samples shall be made on each side of the valve closest to the supply source. ()

07. Cross Connection. There shall be no connection between the distribution system and any pipes, pumps, hydrants, water loading stations, or tanks whereby unsafe water or other contaminating materials may be discharged or drawn into a public water system. ~~(5-3-03)~~()

a. All suppliers of water for community water systems shall implement a cross connection control program to prevent the entrance of toxic or hazardous substances to the system. Reference should be made to the AWWA "Cross Connection Control Manual," as specified in Subsection 002.02.n. of these rules. The program will include: (4-6-05)

i. An inspection once a year of all facilities listed in Subsection 900.02 (Table 2) to locate cross connections and determine required suitable protection. For new connections, suitable protection must be installed prior to providing water service. (5-3-03)

ii. Required installation and operation of adequate backflow prevention assemblies. A selection chart for various facilities, fixtures, equipment, and uses of water is provided in Subsection 900.02 (Table 2). (4-6-05)

iii. Annual inspections and testing of all installed backflow prevention assemblies by a tester licensed by a licensing authority recognized by the Department. (4-6-05)

iv. Discontinuance of service to any facility where suitable backflow protection has not been provided for a cross connection. (12-10-92)

v. If double check valves and/or reduced pressure principle backflow prevention assemblies and/or pressure vacuum breakers are used, they must pass a performance test

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conducted by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research and meet the American Water Works Association C-510 or C-511 standard, or an equivalent standard approved by the Department. (4-6-05)

vi. If atmospheric vacuum breakers and pressure vacuum breakers are used, they shall be marked approved by the International Association of Plumbing and Mechanical Officials (IAPMO) or by the American Society of Sanitation Engineers (ASSE). (10-1-93)

vii. Resilient seated shutoff valves shall be used after the effective date of these rules when double check valves, reduced pressure backflow prevention assemblies, and pressure vacuum breakers are installed. (5-3-03)

b. All suppliers of water for non-community water systems shall ensure that cross-connections do not exist or are isolated from the potable water system by an approved backflow prevention assembly. Backflow prevention assemblies shall be inspected for functionality on a regular basis by a licensed tester, as specified in Subsection 550.07.a.iii. (4-6-05)

08. Water Storage. Storage reservoirs shall be constructed and maintained so that the following requirements are met: (12-10-92)

a. All storage reservoirs shall be protected from flooding; (12-10-92)

b. Stored water shall be protected from contamination; (12-10-92)

i. No public water supply storage tank shall be located within five hundred (500) feet of any municipal or industrial wastewater treatment plant or any land which is spray irrigated with wastewater or used for sludge disposal. (5-3-03)

ii. No storage tank or clear well located below ground level is allowed within fifty (50) feet of a sanitary sewer or septic tank. However, if the sanitary sewer is constructed to water main standards, the minimum separation distance is ten (10) feet. (5-3-03)

c. All storage reservoirs shall have watertight roofs or covers and be sloped so that water will drain; (12-10-92)

d. Manholes shall be fitted with an overlapping watertight locked cover and be at least four (4) inches above the surface of the roof. At least two (2) manholes located above the water line shall be provided where space permits. (5-3-03)

e. Overflows shall be downturned, discharge to daylight, and be provided with either: (4-6-05)

i. A twenty-four (24) mesh noncorrodible screen installed within the pipe when practical, or; (4-6-05)

ii. An expanded metal screen installed within the pipe plus a weighted flapper valve, or; (4-6-05)

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- iii. An equivalent system acceptable to the Department. (4-6-05)
- f. Drains shall discharge to daylight in a way that will preclude the possibility of backflow to the reservoir and, where practical, be provided with an expanded metal screen installed within the pipe that will exclude rodents and deter vandalism. (4-6-05)
- g. Any vent shall extend twelve (12) inches above the roof and be constructed and screened to exclude rain, snow, birds, animals, insects, dust and other potential sources of contamination; (12-10-92)
- h. The bottom of any reservoir located below the ground surface shall be constructed a minimum of four (4) feet above the high groundwater table; and (12-10-92)
- i. There shall be a minimum distance of fifty (50) feet between any buried or partially buried storage reservoir and any sanitary sewers, storm sewers, or any other source of contamination. The area around ground level reservoirs shall be graded in a manner that will prevent standing water within ten (10) feet. (5-3-03)
- j. Hydroneumatic (pressure) tanks shall be acceptable for small water systems serving up to one hundred fifty (150) homes. (5-3-03)
- k. Removable silt stops shall be provided to prevent sediment from entering the reservoir discharge pipe. (5-3-03)
- l. All unused subsurface storage tanks shall be removed and backfilled, or abandoned by extracting residual fluids and filling the structure with sand or fine gravel. (5-3-03)
- 09. Disinfection.** Any supplier of water for a public water system shall ensure that new construction or modifications to an existing system will be flushed and disinfected in accordance with American Water Works Association Standards, as set forth in Subsection 002.02.k., prior to being placed into service. (4-6-05)
- 10. Violations.** Any failure to comply with any provision contained in Section 550 shall be considered a design or construction defect. (12-10-92)

551. Facility And Design Standards - CONSTRUCTION REQUIREMENTS FOR PUBLIC WATER SYSTEMS.

- 01. Engineering Report.** For all new water systems or material modifications to existing water systems, an engineering report shall be submitted for ~~the Department's~~ review and approval by the Department, or other reviewing authority in the case of water main extensions, prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. This report shall provide the following information: (~~12-10-92~~)()
- a. A general description and location of the project; (12-10-92)

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- b.** The estimated design population of the project; (12-10-92)
- c.** Design data for domestic, irrigation, fire fighting, commercial and industrial water uses, including maximum hourly, maximum daily, and average daily demands; (12-10-92)
- d.** Storage requirements; (12-10-92)
- e.** Pressure ranges for normal and peak flow conditions; (12-10-92)
- f.** A computer analysis of the hydraulics of the distribution system if requested by the Department; any analysis of an existing distribution system shall be properly calibrated. (5-3-03)
- g.** Adequacy, quality and availability of sources of water. A water system that is to be served by a separate non-potable irrigation system must provide documentation of legal water rights sufficient to ensure that the irrigation system will not compete with or in any way diminish the source of water for the potable water system. (5-3-03)
- h.** Describe the sewerage system and sewage treatment works, with special reference to their relationship to existing or proposed water works structures which may affect the operation of the water supply system, or which may affect the quality of the supply. ()
- i.** Characterize the various wastes from the water treatment plant, if applicable, their volume, constituents, proposed treatment and disposal. If discharging to a sanitary sewerage system, verify that the system is capable of handling the flow to the treatment works and that the treatment works is capable and willing to accept the additional loading. ()
- j.** For a community system, results of analysis for total coliform, inorganic chemical contaminants, organic chemicals, and radionuclide contaminants set forth in Subsections 050.01, 050.02, 050.05, 100.01, 100.03, 100.04, 100.05, and 100.06, unless analysis is waived pursuant to Subsection 100.07. (5-3-03)
- k.** For a nontransient noncommunity system, results of analysis for total coliform and inorganic and organic chemical contaminants listed in Subsections 050.01, 050.02, 100.01, 100.03, 100.04, unless analysis is waived pursuant to Subsection 100.07. (5-3-03)
- l.** For a transient noncommunity system, results of a total coliform, nitrite, and nitrate analysis listed in Subsections 050.01, 100.01 and 100.03. (5-3-03)
- m.** For any system supplied by surface water or groundwater under the direct influence of surface water, results of turbidity analysis listed in Subsection 100.02. (12-10-92)
- n.** For all new groundwater sources, including but not limited to wells, springs, and infiltration galleries, systems shall supply information as required by the Department to determine if these sources are under the direct influence of the surface water. (12-10-92)
- o.** Potential sources of contamination to proposed sources of water; (12-10-92)

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~~np.~~ Mechanisms for protection of the system from flooding; (12-10-92)

~~eq.~~ In addition to the items listed in Subsections 551.01.a. through 551.01.~~np.~~, the following information must be provided for proposed surface water sources and groundwater sources under the direct influence of surface water: (~~12-10-92~~)(____)

i. Hydrological and historical ~~low~~ stream flow data; (~~12-10-92~~)(____)

ii. A copy of the water right from the Idaho Department of Water Resources; (12-10-92)

iii. Anticipated turbidity ranges, high and low; and (12-10-92)

iv. Treatment selection process and alternative evaluations. (12-10-92)

~~pr.~~ In addition to the items listed in Subsections 551.01.a. through 551.01.n., the following information must be provided for a proposed groundwater source: (12-10-92)

i. A site evaluation report as required in Subsection 550.03.a. for wells and Subsection 550.04 for springs; (5-3-03)

ii. Dimensions of the well lot; and (12-10-92)

iii. Underground geological data and existing well logs. (12-10-92)

iv. If the water is to be treated, summarize the adequacy of proposed processes and unit parameters for the treatment of the specific water. Bench scale testing, pilot studies, or demonstrations of treatment adequacy may be required. (____)

~~s.~~ Generally discuss soil, ground water conditions, and potential building foundation problems, including a description of: (____)

i. The character of the soil through which water mains are to be laid; (____)

ii. Foundation conditions prevailing at sites of proposed structures; and (____)

iii. The approximate elevation of ground water in relation to subsurface structures. (____)

02. Ownership. Documentation of the ownership and responsibility for operating the proposed system shall be made available to the Department prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. The documentation must show organization and financial arrangements adequate to assure construction, operation and maintenance of the system according to these rules. Documentation shall also include the name of the water system, the name, address, and phone number of the supplier of water, the system size, and the name, address, and phone number of the system operator. (10-1-93)

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03. Connection to an Existing System. If the proposed project is to be connected to an existing public water system, a letter from the purveyor must be submitted to the Department stating that they will be able to provide services to the proposed project. This letter must be submitted prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. (12-10-92)

04. Review of Plans and Specifications. “Recommended Standards for Water Works, A Report of the Water Supply Committee of the Great lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers” except Parts One (1) and Eight (8), and all applicable laws, rules, and standards shall be applied in the review of plans and specifications for public water system facilities. With respect to water main extensions, as defined in Section 003, these rules shall apply. “Idaho Guidance for Public Drinking Water Systems” shall be used only to provide assistance in applying and interpreting these rules. (12-1-92)()

a. Prior to construction of new public drinking water systems, new drinking water systems designed to serve ten (10) or more service connections, or material modifications of existing public water systems, plans and specifications must be submitted to the Department for review; and approved approval. ~~The minimum review requirements are as follows:~~ Plans and specifications for water main extensions shall not require pre-construction approval by the Department when such extensions will be owned and operated by a city, county, quasi-municipal corporation or regulated public utility, provided that such plans and specifications are reviewed and approved by a qualified Idaho licensed professional engineer who was not involved in the preparation of the plans and specifications being reviewed to verify compliance with the requirements of these rules prior to initiation of construction. (4-6-05)()

b. The Department shall review plans and specifications to determine compliance with these rules and engineering standards of care. If the plans and specifications comply with these rules and engineering standards of care, the Department shall not substitute its judgement for that of the owner’s design engineer concerning the manner of compliance with the rule.()

c. The Department shall review plans and specifications and endeavor to resolve design issues within forty-two (42) calendar days of submittal such that approval can be granted. If the Department and applicant have not resolved design issues within forty-two (42) calendar days or at any time thereafter, the applicant may file a written demand to the Department for a decision. Upon receipt of such written demand, the Department shall deliver a written decision to the applicant within no more than seven (7) calendar days explaining any reasons for disapproval. The Department shall maintain records of all written demands for decision made pursuant to Subsection 551.04.c. with such records including the final decision rendered and the timeliness thereof. ()

d. ~~Plans and specifications shall be submitted by an Idaho registered professional engineer and bear the imprint of the engineer's seal; except that the Department will accept the seal of an Idaho registered professional geologist on the following:~~ (5-3-03)

~~(+)~~**i.** Well or spring source site evaluation reports, as specified in Subsections 550.03.a. and 550.04. (5-3-03)

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(2)ii. Plans and specifications for well construction and results of field inspection and testing, as specified in Subsections 550.03.e. and 550.03.f. (5-3-03)

ii. ~~Plans shall provide topographical data;~~ (12-10-92)

iii. ~~Plans shall show location of sources or potential sources of contamination. If a separate, non-potable irrigation system is to be provided, the irrigation system shall be fully documented in the plans and specifications;~~ (5-3-03)

iv. ~~Plans shall require all new equipment, piping, and appurtenances to meet American Water Works Association standards, as set forth in Subsection 002.02.k. Used materials shall be approved by the Department prior to installation, and shall have been used previously only in the delivery of potable water; and~~ (4-6-05)

v. ~~Plans shall specify that the project is to be disinfected prior to use in accordance with American Water Works Association standards, as set forth in Subsection 002.02.k.~~ (4-6-05)

e. Plans and specifications shall, where pertinent, provide the following: ()

i. General layout, including: ()

(1) Suitable title; ()

(2) Name of municipality or other entity or person responsible for the water supply; ()

(3) Area or institution to be served; ()

(4) Scale of drawings; ()

(5) North point; ()

(6) Datum used; ()

(7) General boundaries of municipality or area to be served; ()

(8) Date, name, and address of the designing engineer; ()

(9) Legible prints suitable for reproduction; ()

(10) Location and size of existing water mains, if applicable; and ()

(11) For systems undergoing material modification, location and nature of existing water works structures and appurtenances affecting the proposed improvements. ()

ii. Detailed plans, including: ()

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- (1) Stream crossings, providing profiles with elevations of the stream bed and the estimated normal and extreme high and, where appropriate, low water levels; ()
 - (2) Location and size of the property to be used for the development with respect to known references such as roads, streams, section lines, or streets; ()
 - (3) Topography and arrangement of present or planned wells or structures; ()
 - (4) Elevations of the one hundred (100) year flood level in relation to the floor of structures, upper termination of protective casings, and grade surrounding facilities; ()
 - (5) Details of well construction, including diameter and depth of drill holes, casing and liner diameters and depths, grouting depths, elevations, and designation of geological formations, water levels and other data as specified in Subsection 550.03.e; ()
 - (6) Location of all known existing and potential sources of pollution which may affect the water source or underground treated storage facilities; ()
 - (7) Size, length, and materials of proposed water mains; ()
 - (8) Location of existing or proposed streets; water sources, ponds, lakes, and drains; storm sanitary, combined and house sewers; septic tanks, disposal fields and cesspools; ()
 - (9) Schematic flow diagrams and hydraulic profiles showing the flow through various plant units; ()
 - (10) Piping in sufficient detail to show flow through the plant including waste lines; ()
 - (11) Locations of all chemical storage areas, feeding equipment, and points of chemical application; ()
 - (12) All appurtenances, specific structures, equipment, water treatment plant waste disposal units and points of discharge having any relationship to the plans for water mains or water works structures; ()
 - (13) Locations of sanitary or other facilities, such as lavatories, showers, toilets, and lockers, when applicable or required by the Department; ()
 - (14) Locations, dimensions, and elevations of all proposed plant facilities; ()
 - (15) Locations of all sampling taps; and ()
 - (16) Adequate description of any significant features not otherwise covered by the specifications that may impact public safety or welfare. ()
- iii. Complete, detailed technical specifications shall be supplied for the proposed

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project, including: ()

(1) A program for keeping existing water works facilities in operation during construction of additional facilities so as to minimize interruption of service; ()

(2) Laboratory facilities and equipment; ()

(3) Description of chemical feeding equipment; ()

(4) Procedures for flushing, disinfection and testing, as needed, prior to placing the project in service; and ()

(5) Materials or proprietary equipment for sanitary or other facilities, including any necessary backflow or back-siphonage protection. ()

iv. Complete design criteria, as set forth in these rules. ()

v. The Department may require additional information which is not part of the construction drawings, including but not limited to head loss calculations, proprietary technical data, and copies of contracts. ()

b.f. Except for water main extensions, as set forth in Subsection 551.04.a., During construction or modification, the Department must be notified of any *substantial* material deviation from the approved plans. The Department's prior written approval is required before any *substantial* material deviation is allowed. (4-6-05)()

~~**e.** Within thirty (30) days after the completion of construction, the water system shall submit to the Department plans and specifications prepared and stamped by an Idaho registered professional engineer responsible for supervision of construction observation on behalf of the owner. These plans and specifications shall depict the actual construction and illustrate alterations or modifications performed, based on as-built drawings provided by the contractor and field observations made by observer(s) under the direction of the professional engineer.~~ (4-6-05)

~~**d.** If actual construction of the water system does not deviate from the originally approved plans and specifications, the water system may submit a written statement to this effect, prepared and stamped by an Idaho registered professional engineer. This statement shall be based on as-built drawings provided by the contractor and field observations made by observer(s) under the direction of the professional engineer.~~ (5-3-03)

g. Within thirty (30) calendar days of the completion of construction of facilities for which plans are required to be reviewed pursuant to Subsection 551.04.a., record plans and specifications based on information provided by the construction contractor and field observations made by the engineer or the engineer's designee depicting the actual construction of facilities performed, must be submitted to the Director by the engineer representing the city, county, quasi-municipal corporation or regulated public utility that owns the project, or by the design engineer or owner-designated substitute engineer if the facilities will not be owned and

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operated by a city, county, quasi-municipal corporation or regulated public utility. Such submittal by the professional engineer must confirm material compliance with the approved plans and specifications or disclose any material deviations therefrom. If the construction does not materially deviate from the approved plans and specifications, the owner may have a statement to that effect prepared by a qualified Idaho licensed professional engineer and filed with the Department in lieu of submitting a complete and accurate set of record drawings. ()

05. Exception. A District Health Department may exclude noncommunity water systems from the Department's plan and specification review if the District has reviewed the project and will inspect it during construction. The Department may waive the plan and specification approval required of any particular facility or category of facilities when doing so will have no significant impact on public health or the environment. (5-3-03)()

06. Construction. No construction shall commence until all of the necessary approvals have been received from the Department. (12-10-92)

07. Source. Before a public water system uses a new source of water to provide water to consumers, the source shall be approved by the Department. (12-10-92)

08. Installation of Water Mains. Division 400 of "Idaho Standards for Public Works Construction," as specified in Subsection 002.02.p., may be used as guidance for installation of water mains. In addition, the following provisions shall apply: ()

a. Installed pipe shall be pressure tested and leakage tested in accordance with the applicable AWWA Standards or manufacturer's standard for high-density polyethylene. ()

b. New, cleaned, and repaired water mains shall be disinfected in accordance AWWA Standard C651. The specifications shall include detailed procedures for the adequate flushing, disinfection, and microbiological testing of all water mains. ()

c. In areas where aggressive soil conditions are suspected or known to exist, analyses shall be performed to determine the actual aggressiveness of the soil. If soils are found to be aggressive, action shall be taken to protect metallic joint restraints and the water main, such as encasement in polyethylene, provision of cathodic protection, or use of corrosion resistant materials. ()

d. The Department must approve any interconnection between potable water supplies, taking into account differences in water quality between the two (2) systems. ()

e. A continuous and uniform bedding shall be provided in the trench for all buried pipe. Backfill material shall be tamped in layers around the pipe and to a sufficient height above the pipe to adequately support and protect the pipe. Stones found in the trench shall be removed for a depth of at least six (6) inches below the bottom of the pipe. ()

f. Water mains shall be covered with sufficient earth or other insulation to prevent freezing. ()

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g. All tees, bends, plugs and hydrants shall be provided with reaction blocking, tie rods or joints designed to prevent movement. (____)

089. Well Abandonment. Any water supply well that will no longer be used must be abandoned by sealing the borehole carefully to prevent pollution of the groundwater, eliminate any physical hazard, conserve aquifer yield, maintain confined head conditions in artesian wells, and prevent mixing of waters from different aquifers. The objective of proper well abandonment procedures is to restore, as far as possible, the original hydrogeologic conditions. The services of a licensed well driller are required. Instructions for abandoning various types of wells may be obtained from the Idaho Department of Water Resources. (5-3-03)

552. Facility And Design Standards - OPERATING CRITERIA FOR PUBLIC WATER SYSTEMS.

01. Quantity and Pressure Requirements. (12-1-92)

a. Minimum Quantity. The capacity of a public drinking water system shall in no instance be less than eight hundred (800) gallons per day per residence, plus irrigation flows. (5-3-03)

b. Minimum Pressure. (12-1-92)

i. Any public water system shall be capable of providing sufficient water during maximum hourly demand conditions (including fire flow) to maintain a minimum pressure of twenty (20) psi throughout the distribution system, at ground level, as measured at the service connection or along the property line adjacent to the consumer's premises. ~~(5-3-03)~~(____)

ii. Any public water system constructed or significantly modified after July 1, 1985, shall maintain a minimum pressure of forty (40) psi throughout the distribution system, ~~at peak hour flow during peak day of the year~~, during maximum hourly demand conditions, excluding fire flow, measured at the service connection or along the property line adjacent to the consumer's premises. ~~(5-3-03)~~(____)

(1) Existing water systems that are planning to expand their service area shall meet the criteria in Subsections 552.01.b.i. and 552.01.b.ii. in the new service area. ~~Such systems should upgrade pressure standards in the existing system at the same time as the expansion occurs.~~ ~~(5-3-03)~~(____)

(2) Compliance with these requirements by water systems that do not have a meter vault or other point of access at the service connection or along the property line adjacent to the consumer's premises where pressure in the distribution system can be reliably measured shall be determined by measurements within the consumer's premises, or at another representative location acceptable to the Department. (5-3-03)

iii. Any public water system shall keep static pressure within the distribution system below one hundred (100) psi and should ordinarily keep static pressure below eighty (80) psi. Pressures above one hundred (100) psi shall be controlled by pressure reducing devices installed

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in the distribution main. The Department may approve the use of pressure reducing devices at individual service connections on a case by case basis, if it can be demonstrated that higher pressures in portions of the distribution system are required for efficient system operation.

(5-3-03)

iv. The Department may allow the installation of booster pump systems at individual service connections on a case by case basis. However, such an installation may only occur with the full knowledge and agreement of the public water system, including assurance by the water system that the individual booster pump will cause no adverse effects on system operation.()

iv. When pressures within the system are known to have fallen below twenty (20) psi, the water system must provide public notice and disinfect the system.

(5-3-03)

c. Fire Flows. Any public water system designed to provide fire flows shall ensure that such flows are compatible with the water demand of existing and planned fire fighting equipment and fire fighting practices in the area served by the system.

(5-3-03)

d. Irrigation Flows.

(12-1-92)

i. Any public water system constructed after November 1, 1977, shall be capable of providing water for uncontrolled, simultaneous foreseeable irrigation demand, which shall include all acreage that the system is designed to irrigate.

(5-3-03)

(1) The Department must concur with assumptions regarding the acreage to be irrigated. In general, an assumption that no outside watering will occur is considered unsound and is unlikely to be approved.

(5-3-03)

(2) An assumption of minimal outside watering, as in recreational subdivisions, may be acceptable if design flows are adequate for maintenance of "green zones" for protection against wildland fire.

(5-3-03)

ii. The requirement of Subsection 552.01.d.i. may be modified by the Department if:

(5-3-03)

(1) A separate irrigation system is provided; or

(12-10-92)

(2) The supplier of water can regulate the rate of irrigation through its police powers, and the water system is designed to accommodate a regulated rate of irrigation flow. The Department may require the water system to submit a legal opinion addressing the enforceability of such police powers.

(5-3-03)

iii. If a separate nonpotable irrigation system is provided for the consumers, all mains, hydrants and appurtenances shall be easily identified as nonpotable. The Department must concur with a plan to ensure that each new potable water service is not cross-connected with the irrigation system.

(5-3-03)

02. Additives. No chemical or other substance shall be added to drinking water, nor

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shall any process be utilized to treat drinking water, unless specifically approved by the Department. All chemicals shall conform to applicable American Water Works Association Standards as set forth in Subsection 002.02.k., and be listed as approved under ANSI/NSF standard 60 or 61, as ~~set forth~~ specified in Subsections 002.02.l.~~+~~ and 002.02.m.

(4-6-05)(____)

03. Groundwater. (12-10-92)

a. Public water systems constructed after July 1, 1985, and supplied by groundwater, shall treat water within the system by disinfection if the groundwater source is not protected from contamination. (12-10-92)

b. The Department may, in its discretion, require disinfection for any existing public water system supplied by groundwater if the system consistently exceeds the MCL for coliform, and if the system does not appear adequately protected from contamination. Adequate protection will be determined based upon at least the following factors: (12-10-92)

- i. Location of possible sources of contamination; (12-10-92)
- ii. Size of the well lot; (12-10-92)
- iii. Depth of the source of water; (12-10-92)
- iv. Bacteriological quality of the aquifer; (12-10-92)
- v. Geological characteristics of the area; and (12-10-92)
- vi. Adequacy of development of the source. (12-10-92)

04. **Operating Criteria.** The operating criteria for systems supplied by surface water or groundwater under the direct influence of surface water shall be as follows: (12-10-92)

a. Each system must develop and follow a water treatment operations plan acceptable to the Department, by July 31, 1993, or within six (6) months of installation of filtration treatment, whichever is later. For a maximum of twelve (12) months, this may be a draft operations plan based on pilot studies or other criteria acceptable to the Department. After twelve (12) months the plan shall be finalized based on full scale operation. (12-10-92)

b. The purveyor shall ensure that treatment facilities are operated in accordance with good engineering practices such as those found in the Recommended Standards for Water Works, A Report of the Water Supply Committee of the Great Lakes - Upper Mississippi River Board of Public Health and Environmental Managers as set forth in Subsection 002.02.c., or other equal standard designated by the Department. (4-6-05)

c. New treatment facilities shall be operated in accordance with Subsection 552.04.b., and the system shall conduct monitoring specified by the Department for a trial period specified by the Department before serving water to the public in order to protect the health of

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consumers served by the system. (12-10-92)

05. Chlorination. Systems that regularly add chlorine to their water are subject to the provisions of Section 320. Systems using surface water or ground water under the direct influence of surface water, are subject to the disinfection requirements of Section 300 and Subsection 550.05. (4-6-05)

a. Systems using only ground water that add chlorine for the purpose of disinfection, as defined in Section 003, are subject to the following requirements: (4-6-05)

i. Chlorinator capacity shall be such that the system is able to demonstrate that it is routinely achieving four (4) logs (ninety-nine point ninety-nine percent) (99.99%)) inactivation of viruses. The required contact time will be specified by the Department. This condition must be attainable even when the maximum hourly demand coincides with anticipated maximum chlorine demands. (4-6-05)

ii. A detectable chlorine residual shall be maintained throughout the distribution system. (4-6-05)

iii. Automatic proportioning chlorinators are required where the rate of flow is not reasonably constant. (12-10-92)

iv. Analysis for free chlorine residual shall be made at least daily and records of these analyses shall be kept by the supplier of water for at least one (1) year. The frequency of measuring free chlorine residuals shall be sufficient to detect variations in chlorine demand or changes in water flow. (4-6-05)

v. A separate and ventilated room for gas chlorination equipment shall be provided. (12-10-92)

vi. The Department may, in its discretion, require a treatment rate higher than that specified in Subsection 552.05.a.i. (4-6-05)

vii. When chlorine gas is used, chlorine leak detection devices and safety equipment shall be provided in accordance with the 1992 Recommended Standards for Water Works, as set forth in Subsection 002.02.c. (12-10-92)

b. Systems using only ground water that add chlorine for the purpose of maintaining a disinfectant residual in the distribution system, when the source(s) is not at risk of microbial contamination, are subject to the following requirements: (4-6-05)

i. Automatic proportioning chlorinators are required where the rate of flow is not reasonably constant. (4-6-05)

ii. Analysis for free chlorine residual shall be made at a frequency that is sufficient to detect variations in chlorine demand or changes in water flow. (4-6-05)

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c. Systems using only ground water that add chlorine for other purposes, such as oxidation of metals or taste and odor control, when the source(s) is known to be free of microbial contamination, must ensure that chlorine residual entering the distribution system after treatment is less than four (4.0) mg/L. The requirements in Subsection 552.05.b.ii. also apply if the system maintains a chlorine residual in the distribution system. (4-6-05)

06. Fluoridation. (12-1-92)

a. Commercial sodium fluoride, sodium silico fluoride and hydrofluosilicic acid which conform to the applicable American Water Works Association Standards are acceptable as set forth in Subsection 002.02.k. Use of other chemicals shall be specifically approved by the Department. (4-6-05)

b. The accuracy of chemical feeders used for fluoridation shall be plus or minus five percent (5%) of the intended dose. (12-10-92)

c. Fluoride compounds shall be stored in covered or unopened shipping containers. Storage areas shall be ventilated. (12-10-92)

d. Provisions shall be made to minimize the quantity of fluoride dust. (12-10-92)

e. Daily records of flow and amounts of fluoride added shall be kept. An analysis for fluoride in finished water shall be made at least weekly. Records of these analyses shall be kept by the supplier of water for five (5) years. (12-10-92)

(BREAK IN CONTINUITY OF SECTIONS)

901. -- ~~995~~999.(RESERVED).

Section 996 Has Been Moved to Section 014

Section 997 Has Been Moved to Section 015

~~998. Inclusive Gender.~~

~~For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate.~~ (10-1-93)

~~999. Severability.~~

~~Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, "Idaho Rules For Public Drinking Water Systems," are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of these rules.~~ (10-1-93)

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.13 - RULES FOR ORE PROCESSING BY CYANIDATION

DOCKET NO. 58-0113-0501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapter 1, Title 39, Idaho Code. In addition, the Idaho Legislature directed DEQ to promulgate rules to implement the provisions of Senate Bill 1169 (codified at Section 39-118A, Idaho Code).

DESCRIPTIVE SUMMARY: Under Senate Bill 1169, the 2005 Idaho Legislature amended Section 39-118A, Idaho Code, and the Surface Mining Act, Chapter 15, Title 47, Idaho Code, with respect to bonding, closure plans, and time frames for rejecting or approving permits for ore processing facilities using cyanide. Senate Bill 1169 directed DEQ and the Idaho Department of Lands (IDL) to promulgate rules implementing the provisions of the legislation by August 1, 2005. This rule is the result of a series of negotiated rulemaking meetings conducted with members of the regulated community, other interested parties, and IDL. The Board of Environmental Quality adopted the temporary rule on June 23, 2005 with an effective date of July 13, 2005.

In addition, under Docket No. 58-0113-0502, DEQ initiated rulemaking for the purpose of making revisions to the Rules for Ore Processing by Cyanidation in response to the Idaho Conservation League's Petition for Initiation of Rulemaking filed with the Board of Environmental Quality in February 2005. Docket No. 58-0113-0502 also addresses an increase in fees associated with the permitting process as well as any other changes deemed necessary to assure consistency with state and federal law and the efficient operation of a system for permitting ore processing by cyanidation within the state of Idaho.

The two public comments received are in support of this rule. However, issues were raised that are outside the scope of Senate Bill 1169 and this rulemaking. Those concerns will be addressed by DEQ in Docket No. 58-0113-0502. The rule has been adopted as initially proposed in the August 3, 2005 Idaho Administrative Bulletin, Vol. 05-8, pages 369 through 388. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule makes revisions to a current existing rule that regulates an activity not regulated by the federal government. The Idaho Legislature directed DEQ to promulgate temporary rules to implement the provisions of Senate Bill 1169 by August 1, 2005. DEQ initiated this rulemaking to meet that statutory directive.

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IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this pending rule, contact Bruce Schuld at bruce.schuld@deq.idaho.gov, (208)373-0554.

Dated this 16th day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The temporary rule was effective July 13, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality (DEQ) is commencing proposed rulemaking. This action is authorized by Chapter 1, Title 39, Idaho Code. In addition, the Idaho Legislature directed DEQ to promulgate rules to implement the provisions of Senate Bill 1169 (codified at Section 39-118A, Idaho Code).

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before August 17, 2005. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: Under Senate Bill 1169, the 2005 Idaho Legislature amended Section 39-118A, Idaho Code, and the Surface Mining Act, Chapter 15, Title 47, Idaho Code, with respect to bonding, closure plans, and time frames for rejecting or approving permits for ore processing facilities using cyanide. Senate Bill 1169 directed DEQ and the Idaho Department of Lands (IDL) to promulgate temporary rules implementing the provisions of the legislation by August 1, 2005. This temporary/proposed rule is the result of a series of negotiated rulemaking meetings conducted with members of the regulated

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community, other interested parties, and IDL. The Board of Environmental Quality adopted the temporary rule on June 23, 2005.

The Idaho Mining Association, Independent Miners Association, Idaho Conservation League, Idaho Rivers United, U.S. EPA, mining companies, associated grass roots environmental and multiple use organizations, and the public at large may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality for adoption of a pending rule in November 2005. The pending rule will become final upon the conclusion of the 2006 session of the Idaho Legislature if approved by the Legislature.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is necessary to meet the deadline for rule adoption set out in Senate Bill 1169.

IDAHO CODE SECTION 39-107D STATEMENT: This temporary/proposed rule makes revisions to a current existing rule that regulates an activity not regulated by the federal government. The Idaho Legislature directed DEQ to promulgate temporary rules to implement the provisions of Senate Bill 1169 by August 1, 2005. DEQ initiated this rulemaking to meet that statutory directive.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, April 6, 2005, Vol. 05-4, page 23.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact John Lawson at john.lawson@deq.idaho.gov, (208)373-0141.

Anyone may submit written comments regarding this proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before August 31, 2005.

DATED this 1st day of July, 2005.

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THE FOLLOWING IS THE TEXT OF THE PENDING RULE

000. LEGAL AUTHORITY.

Title 39, Chapter 1, Idaho Code, grants the authority to the Board of Environmental Quality to adopt rules, regulations and standards to protect the environment and the health of the State; grants authority to the Director to issue permits as prescribed by law and by the rules of the Board; and requires Department of Environmental Quality review and approval of plans and specifications for all new facilities, or for modifications or expansions to existing facilities, that process ore by cyanidation; and authorizes the Director to require a reasonable fee for processing permit applications ~~and to require financial assurance for permanent closure. (1-1-88)(7-13-05)T~~

001. TITLE, SCOPE AND INTENT.

01. Title. These rules shall be known as Idaho Department of Environmental Quality Rules, IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation". (1-1-88)

02. Scope and Intent. These rules establish the procedures and requirements for the issuance and maintenance of a permit to construct, operate and close that portion of ~~an ore processing~~ a cyanidation facility ~~which utilizes cyanidation and~~ that is intended to contain, treat or dispose of process water or process-contaminated water containing cyanide. The provisions of these rules also establish requirements for water quality protection which address performance, construction, operation and closure of that portion of any ~~ore processing~~ cyanidation facility that is intended to contain, treat, or dispose of process water ~~or process-contaminated water containing cyanide~~. These rules are intended to ensure that process water and process-contaminated water generated in ore processing operations that utilize cyanide as a primary leaching agent and pollutants associated with the cyanidation process are safely contained, controlled, and treated so that they do not interfere with the beneficial uses of the waters of the state and do not endanger public safety or the environment. ~~(12-31-91)(7-13-05)T~~

002. DEFINITIONS.

01. Beneficial Use. Any of the various uses which may be made of the surface and/or ground water of the state including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. Beneficial uses for specific stream segments are established in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements". (1-25-95)

02. Best Management Practices (BMPs). Practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan, as described in IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals. (7-13-05)T

023. Cyanidation. A The method of extracting target precious metals from ores by treatment with a cyanide solution, which is the primary leaching agent for extraction.

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~~(1-1-88)~~(7-13-05)T

04. Cyanidation Facility. That portion of a new ore processing facility, or a material modification or a material expansion of that portion of an existing ore processing facility, that utilizes cyanidation and is intended to contain, treat, or dispose of cyanide containing materials including spent ore, tailings and process water. (7-13-05)T

035. Department. The Idaho Department of Environmental Quality. (1-1-88)

046. Director. The Director of the Department of Environmental Quality or his designee. (12-31-91)

057. Discharge. When used without qualification, ~~the release of process water, process-contaminated water, chemicals, or other potential~~ any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutants into the ~~surface waters and/or ground~~ waters of the State. ~~(1-1-88)~~(7-13-05)T

06. Existing Facility. ~~Any facility engaged in commercial cyanidation within one (1) year prior to the original effective date of these rules; any portion of a facility under construction prior to the original effective date of these rules; or, any portion of a facility under construction within three (3) months after the effective date of these rules, and in accordance with Department approved engineering plans and specifications.~~ (7-1-97)

07. Facility. ~~For the purpose of these rules, a facility means that portion of an ore processing operation which utilizes cyanidation and which is intended to contain, treat, or dispose process water or process-contaminated water containing cyanide.~~ (7-1-97)

08. Free Cyanide. The sum of cyanide present as undissociated molecular hydrogen cyanide (HCN) and the cyanide ion (CN⁻), expressed as cyanide (CN). (1-1-88)

09. Groundwater. ~~Subsurface water comprising the zone of saturation including perched groundwater.~~ Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. ~~(1-1-88)~~(7-13-05)T

10. Impoundment. For the purpose of these rules an impoundment means a structure such as a pond, reservoir, tank, or vat that collects and confines liquids or slurries. (7-1-97)

11. Land Application. A process or activity involving application of process water, process-contaminated water, wastewater, surface water, or semi-liquid material to the land for the purpose of disposal, pollutant removal, or groundwater recharge. (1-1-88)

12. Liner. A continuous layer of natural or man-made materials beneath and, if applicable, on the sides of a surface impoundment or leach pad which restricts the downward and lateral escape of liquids. (1-1-88)

13. Material Modification or Material Expansion. (7-13-05)T

a. The addition of a new beneficiation process which includes, but is not limited to,

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heap leaching and process components for milling, which was not identified in the original application that significantly increases the potential to degrade the waters of the state; or

(7-13-05)T

b. A significant change in the location of a proposed process component or site condition which was not adequately described in the original application; or

(7-13-05)T

c. A change in the beneficiation process that alters the characteristics of the waste stream in a way that significantly increases the potential to degrade the waters of the state.

(7-13-05)T

d. Reclamation or closure related activities at a facility with an existing cyanidation permit that did not actively add cyanide after January 1, 2005 shall not be considered to be material modifications or material expansions of the cyanidation facility.

(7-13-05)T

14. Material Stabilization. Managing or treating spent ore, tailings or other solids and/or sludges resulting from the cyanidation process to minimize waters or all other applied solutions from migrating through the material and transporting contaminants associated with the cyanidation facility to ensure that all discharges comply with all applicable standards and criteria.

(7-13-05)T

15. Neutralization. Treatment of process waters such that discharge or final disposal of those waters does not, or shall not, violate any applicable standards and criteria.

(7-13-05)T

136. Permanent Closure. ~~Final cessation of operations.~~ Those activities which result in neutralization, material stabilization and decontamination of cyanidation facilities and/or their final reclamation.

~~(1-1-88)~~(7-13-05)T

17. Permanent Closure Plan. A description of the procedures, methods, and schedule that will be implemented to meet the intent and purpose of Section 39-118A, Idaho Code, and Chapter 15, Title 47, Idaho Code, in treating and disposing of cyanide-containing materials including spent ore, tailings, and process water and in controlling and monitoring discharges and potential discharges for a reasonable period of time based on site-specific conditions.

(7-13-05)T

148. Permit. When used without qualification, any written authorization by the Director, issued pursuant to the application, public participation and appeal procedures in these rules, governing location, operation and maintenance, monitoring, seasonal and permanent closure, discharge response, and design and construction of a new cyanidation facility or a material expansion or material modification to a cyanidation facility.

~~(7-1-97)~~(7-13-05)T

159. Permittee. The person in whose name a permit is issued and who is to be the principal party responsible for compliance with these rules and the conditions of a permit.

(7-1-97)

1620. Person. An individual, corporation, partnership, association, state, municipality, commission, federal agency, special district or interstate body.

(1-1-88)

1721. Pilot Facility.

(7-1-97)

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a. A testing cyanidation facility that is constructed primarily to obtain data on the effectiveness of the benefaction process to determine: ~~(7-1-97)~~(7-13-05)T

- i. The feasibility of metals recovery from an ore; or (7-1-97)
- ii. The optimum operating conditions for a predetermined process to extract values from an ore. (7-1-97)

b. A pilot or testing facility operates for one (1) year for a single test or two (2) years for multiple tests, during which time no more than ten thousand (10,000) tons of ore are evaluated for the testing process(es), unless the applicant can demonstrate that a greater amount is necessary for a specific purpose in the testing process. (7-1-97)

~~1822.~~ **Pollutant.** Chemicals, chemical waste, process water, process-contaminated water, biological materials, radioactive materials, or other materials which, when discharged cause or contribute adverse effects to any beneficial use. (1-1-88)

23. Post-Closure. The period of time after completion of permanent closure when the operator is monitoring the effectiveness of the closure plan. Post closure shall last a minimum of twelve (12) months but may extend until the cyanidation facility is shown to be in compliance with the stated permanent closure objectives and requirements of Chapter 15, Title 47, Idaho Code, and these rules. (7-13-05)T

24. Process Waters. Any liquids which are intentionally or unintentionally introduced into any portion of the cyanidation process. These liquids may contain cyanide or other minerals, meteoric water, ground or surface water, elements and compounds added to the process solutions for leaching or the general beneficiation of ore, or hazardous materials that result from the combination of these materials. (7-13-05)T

~~1925.~~ **Seasonal Closure.** Annual cessation of operations that is due to weather. (1-1-88)

206. Small ~~Mineral~~ Cyanidation Processing Facility. A cyanidation facility which chemically processes less than thirty-six thousand five hundred (36,500) tons of ore per year and no more than one hundred twenty thousand (120,000) tons of ore for the life of the project at any one (1) permitted ~~site~~ cyanidation facility. No person or applicant may concurrently hold more than one (1) small ~~mineral~~ cyanidation processing facility permit, if located within ten (10) miles of each other. ~~(7-1-97)~~(7-13-05)T

247. Special Resource Water. Those waters of the state which are recognized as needing intensive protection: (1-1-88)

- a. To preserve outstanding or unique characteristics; or (1-1-88)
- b. To maintain current beneficial use (refer to Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," for a complete description; special resource waters for specific stream segments are established in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water

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Quality Standards and Wastewater Treatment Requirements”). (1-25-95)

228. State. The state of Idaho. (12-31-91)

239. Temporary Closure. Any cessation of operations exceeding thirty (30) days, other than seasonal or permanent. (1-1-88)

2430. Treatment. Any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a waste for the purpose of disposal. (1-1-88)

31. Water Balance. An inventory and accounting process, capable of being reconciled, that integrates all potential sources of water that are entrained in the cyanidation facility or may enter into or exit from the cyanidation facility. The inventory must include the water holding capacity of specific structures within the facility that contain process water. The water balance is used to ensure that all process water can be contained as engineered and designed within a factor of safety as determined in the permanent closure plan. (7-13-05)T

32. Water Management Plan. A document that describes the results of the water balance and the methods that will be used to ensure that pollutants are not discharged from a cyanidation facility into waters of the state unless permitted or otherwise approved by the Department. (7-13-05)T

2533. Waters of the State. All the accumulations of water, surface and underground, natural and artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. These waters shall not include municipal or industrial wastewater treatment or storage structures or private reservoirs, the operation of which has no effect on waters of the state. (~~12-31-91~~)(7-13-05)T

2634. Weak Acid Dissociable (WAD) Cyanide. ~~The sum of free cyanide and all but the most refractory metal cyanide complexes, such as the iron, gold, cobalt, and platinum cyanides.~~ The cyanide concentration as determined by Method C, Weak Acid Dissociable Cyanide, D2036 of American Society of Testing Materials Book of Standards, “Standard Methods for the Examination of Water and Wastewater,” Method 4500-CN- I, or other methods accepted by the scientific community and deemed appropriate by the Department. (~~1-1-88~~)(7-13-05)T

003. -- 009. (RESERVED).

010. APPLICABILITY TO ~~EXISTING~~ FACILITIES WITH EXISTING PERMITS.

A cyanidation facility with an existing permit approved by the Department prior to July 1, 2005 shall be subject to the applicable laws and rules for ore processing by cyanidation in effect on June 30, 2005. Material modifications or material expansions of such facilities are subject to Section 39-118A, Idaho Code. The rules for ore processing by cyanidation in effect on June 30, 2005 can be obtained by contacting the Department of Environmental Quality, Hearing Coordinator, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, www.deq.idaho.gov.

(7-13-05)T

~~**01. Registration Requirement.** Except as expressly provided in these rules, an existing~~

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~~facility shall not be subject to these rules if the owner or operator of such a facility registers with the Department within three (3) months after the original effective date of these rules. Nothing in this section shall be construed to deny the owner or operator of an existing facility the opportunity to apply for, and receive, a permit under these rules.~~ (1-1-88)

02. ~~Registration Form.~~ ~~Registration of an existing facility shall include the following, and items in Subsections 010.02.k., 010.02.n., 010.02.p., and 010.02.q. shall be in sufficient detail for the Director to determine, in the future, if a registered existing facility has been materially modified or materially expanded without a valid permit under these rules:~~ (12-31-91)

- ~~a. Name, location and mailing address of the facility;~~ (1-1-88)
- ~~b. Name, phone number and mailing address of the facility owner or operator, and the registered agent;~~ (1-1-88)
- ~~c. Land ownership status of the facility (federal, state, private or public entity);~~ (1-1-88)
- ~~d. Legal structure of the owner or operator (corporation, partnership, etc.);~~ (1-1-88)
- ~~e. Facility layout, topographic map with plan view of the facility;~~ (1-1-88)
- ~~f. Wells, irrigation ditches and drainages within one (1) mile radius of the facility (shown on topographic map);~~ (1-1-88)
- ~~g. Existing water quality monitoring and leak detection, including number, monitoring frequency and location of wastewater surface water and groundwater monitoring sites (shown on topographic map);~~ (1-1-88)
- ~~h. Project access;~~ (1-1-88)
- ~~i. Estimated facility life;~~ (1-1-88)
- ~~j. Operating season;~~ (1-1-88)
- ~~k. Ore processing rate (tons/day);~~ (1-1-88)
- ~~l. Process solution flow rate (gal./day);~~ (1-1-88)
- ~~m. Water supply source, location and peak demand;~~ (1-1-88)
- ~~n. General description of steps involving cyanidation including:~~ (1-1-88)
 - ~~i. Leaching cycle (time); and~~ (1-1-88)
 - ~~ii. Process waste (spent ore and/or excess process water) treatment and disposal method, location, volume and area;~~ (1-1-88)

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- ~~01.~~ ~~Water management system(s), including determination of overall water balance;~~ (1-1-88)
- ~~02.~~ ~~Storage capacity of all process impoundments and emergency impoundments, and the total free-board storage in excess of total operating requirements;~~ (1-1-88)
- ~~03.~~ ~~Total pad, pond and lined areas including basic design and materials to be used.~~ (1-1-88)
- ~~03.~~ ~~**Verification of Registration.** Registration under this section shall be subject to on-site verification by the Director, and shall be based upon the truth and accuracy of the information provided on the registration form.~~ (1-1-88)
- ~~04.~~ ~~**Public Notice.** No public notice of registration is required.~~ (1-1-88)
- ~~05.~~ ~~**False Information.** Submission of false information or the material omission of information without reasonable investigation for purposes of registration under this section shall be cause for the Director to require an existing facility to apply for, and obtain, a permit under these rules.~~ (1-1-88)

011. -- 049. (RESERVED).

050. CONCEPTUAL DESIGN APPROVAL.

01. Information Required for Conceptual Design Approval. Submittal of a Conceptual Design Report is not mandatory. The Director may, if requested, give initial approval of the basic operation, design concepts, and environmental safeguards proposed based on the information included in a Conceptual Design Report. Approval of the Conceptual Design Report shall not authorize the construction, modification or operation of the cyanidation facility. The Conceptual Design Report shall consist of the following: (1-1-88)(7-13-05)T

a. Requirements for a permit application as listed in Subsections 100.03.a. through 100.03.f. (12-31-91)

b. A general description of the operating plan, ~~processing~~ cyanidation facility and conceptual designs. (1-1-88)(7-13-05)T

02. Notice of Conceptual Design Approval or Disapproval. The Director shall notify the applicant in writing of the decision for conceptual approval or disapproval within a period of thirty (30) days from receiving all information as required under Subsection 050.01. The time required to review and approve, if appropriate, a conceptual design shall be considered separate from and shall not be included as part of the one hundred eighty (180) day time period for processing the formal application and issuance of a Director's determination pursuant to these rules. (12-31-91)(7-13-05)T

03. Preapplication Conference. Prospective applicants are encouraged to meet with agents of the Department well in advance to discuss siting and operating plans, anticipated application requirements, application procedures, and to arrange for ~~a-site~~ cyanidation facility

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visits.

~~(1-1-88)~~(7-13-05)T

051. -- 099. (RESERVED).

100. PERMIT AND PERMIT APPLICATION.

01. Permit Required. No person shall construct a new cyanidation facility prior to obtaining a permit from the Director. No person shall materially expand or materially modify a ~~new or existing~~ cyanidation facility prior to obtaining a permit for such expansion or modification. ~~(1-1-88)~~(7-13-05)T

02. Permit Application. The owner or operator of a proposed cyanidation facility or the owner's or operator's authorized representative shall: (7-13-05)T

a. ~~##~~Make application to the Director in writing and in a manner or form prescribed herein; and ~~(1-1-88)~~(7-13-05)T

b. Provide five (5) paper copies of the application to the Director, unless otherwise agreed to by the Department and the applicant. (7-13-05)T

03. Contents of Application. A permit application will be used to determine if the location, construction, operation, and closure of a proposed cyanidation facility will be in conformance with these and other applicable rules including, but not limited to Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," and Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems". Information required shall include the following, in sufficient detail to allow the Director to make necessary application review decisions concerning design concept, environmental protection and public health: ~~(7-1-97)~~(7-13-05)T

a. Name, location, and mailing address of the cyanidation facility. ~~(1-1-88)~~(7-13-05)T

b. Name, mailing address, and phone number of the applicant, and a registered agent. (1-1-88)

c. Land ownership status of the cyanidation facility (federal, state, private or public). ~~(1-1-88)~~(7-13-05)T

d. The legal structure (corporation, partnership, etc.) and residence of the applicant. (1-1-88)

e. A surface and subsurface description, except as provided in Subsection 100.04 of these rules, of ~~the proposed facility site to characterize~~ the local hydrogeologic regime. ~~(7-1-97)~~(7-13-05)T

f. A topographic site map and or aerial photos, except as provided in Subsection 100.04 of these rules, extending at least one (1) mile beyond the outer limits of the cyanidation

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facility ~~site~~, identifying and showing the location and extent of the following features:

~~(7-1-97)~~(7-13-05)T

i. All wells, springs, wetlands, surface waters and irrigation ditches within one (1) mile of the ~~site boundary~~ cyanidation facility; ~~(1-1-88)~~(7-13-05)T

ii. All process water supply source(s); (1-1-88)

iii. All public and private drinking water supply source(s) within at least one (1) mile of the ~~site boundary~~ cyanidation facility; ~~(1-1-88)~~(7-13-05)T

iv. All USGS identified floodplain areas (as shown on USGS sectional Quadrangle maps); (1-1-88)

v. All service roads and public roads; (1-1-88)

vi. All buildings and structures within a half (1/2) mile of the ~~site boundary~~ cyanidation facility; ~~(1-1-88)~~(7-13-05)T

vii. All special resource waters within one (1) mile of the ~~site boundary~~ cyanidation facility; ~~(1-1-88)~~(7-13-05)T

g. Topographic maps and/or aerial photos and an engineering report with drawings, except as provided in Subsection 100.04 of these rules, showing locations and design of those portions of the cyanidation facility intended to contain, treat, or dispose process water or process-contaminated water containing cyanide. This information shall be of sufficient detail to allow the Director to make necessary factual determinations concerning design competence and environmental protection and include: a drawing which shows surface gradients and flow of process solutions, predicted flow of runoff and run-on; design criteria and process schematic; leach pad and pond cross sections; typical details of liner systems for pads, ponds and process-related impoundments; treatment process schematics; and leak detection/monitoring system details. The cyanidation facility design shall be certified by a registered professional engineer. Any material modifications to the engineering drawings shall require prior approval by the Department and submittal of as built drawings by the applicant which are certified by a registered professional engineer. These rules recognize the need for practicable design flexibility in order to meet site specific operating and environmental protection criteria. Construction and material specifications that meet design criteria shall be submitted with the permit application. These shall address major construction requirements related to materials of construction identified in the engineering report, inspection and testing requirements (including liners), and necessary manufacturer certifications. Construction specifications shall include a quality assurance procedure for liner installations and a procedure for leak testing of impoundments.

~~(7-1-97)~~(7-13-05)T

h. An operating plan, except as provided in Subsection 100.04 of these rules, that includes: (7-1-97)

i. The general ore processing overview; (1-1-88)

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- ii. The process containment, treatment and disposal methods to be used; (1-1-88)
- iii. A water management ~~strategy~~ plan that describes the process water balance and the methods to manage all process water, process-contaminated water, and runoff or run-on water, emergency releases, and excess water due to flood, rain, snowmelt, or other similar events. The ~~strategy~~ plan shall include the basis for impoundment volumes and all estimations. Nothing in these rules shall be construed to deny the owner or operator of a cyanidation facility the opportunity to apply for and receive a federal discharge permit or an Idaho Department of Water Resources injection well permit as part of the water management ~~strategy~~ plan. In addition the ~~strategy~~ plan may include a request for approval of a land application proposal or a proposal for economic reuse. ~~(7-1-97)~~(7-13-05)T
- iv. A monitoring strategy that describes the existing water quality (baseline), proposed monitoring of surface and ground waters that may receive drainage or seepage from the operation (operational), and proposed monitoring for detection and location of leaks or discharges from the operation. (1-1-88)
- v. A discharge response strategy that describes procedures and methods to be implemented for the abatement, and clean up of any pollutant that may escape proper containment at the cyanidation facility. ~~(1-1-88)~~(7-13-05)T
- vi. A seasonal closure strategy, if applicable, that describes the procedures, methods, and schedule to be implemented for the treatment and disposal of process water, the control of drainage from the cyanidation facility during the period of closure, the control of drainage from the surrounding area, and the secure storage of chemicals. ~~(1-1-88)~~(7-13-05)T
- i. A Permanent Closure Plan ~~that describes the procedures, methods, and schedule to be implemented at the facility for the treatment and disposal of process water and process-contaminated water and the control and monitoring of discharges and potential discharges for a reasonable period of time based on site-specific conditions.~~ The permanent closure plan may be the same as the plan submitted to the Idaho Department of Lands pursuant to the Idaho Surface Mining Act, Chapter 15, Title 47, Idaho Code. The permanent closure plan shall: ~~(1-1-88)~~(7-13-05)T
- i. Provide a definition of the current ownership of the cyanidation facility and the party responsible for the permanent closure and the long-term care and maintenance of the cyanidation facility. (7-13-05)T
- ii. Include a timeline showing the schedule to complete permanent closure activities, including neutralization of process waters and material stabilization, and the time period for which the operator shall be responsible for post-closure activities. (7-13-05)T
- iii. Provide the objectives, methods and procedures, that will achieve neutralization of process waters and material stabilization during the closure period and through post-closure. (7-13-05)T
- iv. Provide a water management plan from the time the cyanidation facility is in

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permanent closure through the defined post-closure period. (7-13-05)T

v. Include the schematic drawings for all BMPs that will be used during the closure period, through the defined post-closure period, a description of how the BMPs support the water management plan, and an explanation of the water conveyance systems that are planned for the cyanidation facility. (7-13-05)T

vi. Provide proposed post-construction topographic maps and scaled cross-sections showing the configuration of the final heap or tailing facility, including final cap and cover designs and the plan for long-term operation and maintenance of the cap. Caps and covers used as source control measures for cyanidation facilities must be designed to minimize the interaction of meteoric waters, surface waters, and ground waters with wastes containing contaminants that are likely to be mobilized and discharged to waters of the state. Engineering designs and specifications for caps and covers must be signed and stamped by a professional engineer registered in the state of Idaho. (7-13-05)T

vii. Include monitoring plans for surface and ground water during closure and post-closure periods adequate to demonstrate water quality trends and to ensure compliance with the stated permanent closure objectives and requirements of these rules. (7-13-05)T

viii. Provide an assessment of the potential impacts to soils and vegetation for all areas to be used for land application and provide a mitigation plan as appropriate. (7-13-05)T

ix. Provide information on how the operator will comply with the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901 et seq.; the Idaho Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code; the Idaho Solid Waste Management Act, Chapter 74, Title 39, Idaho Code; and appropriate state rules, during operation and permanent closure. (7-13-05)T

x. All components of the permanent closure plan shall be prepared in sufficient detail to allow the operator to prepare an estimate of the reasonable cost for a third party to implement the closure plan. (7-13-05)T

j. The application shall be accompanied by a fee of one hundred dollars (\$100). (1-1-88)

04. Application for a Small ~~Mineral~~ Cyanidation Processing Facility and Pilot Facility. The owner or operator of a proposed small cyanidation processing facility or the owner's or operator's authorized representative shall make application to the Director in writing of the intent to operate a small ~~mineral~~ cyanidation processing facility or a pilot facility. The application shall include an explanation as to why the proposed small cyanidation processing facility qualifies as a small ~~mineral~~ cyanidation processing facility or a pilot facility. The application must further meet the requirements of Subsection 100.03 in the following manner: (~~7-1-97~~)(7-13-05)T

a. The application must contain plans and specifications certified by a registered professional engineer in accordance with Section 39-118A, Idaho Code; and (7-1-97)

b. The application must contain the information and fee required by Subsections

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100.03.a., 100.03.b., 100.03.c., 100.03.d., 100.03.i., and 100.03.j.; and (7-1-97)

c. The Director may provide an exemption to any other requirement of Subsection 100.03 not set forth in Subsections 100.04.a. and 100.04.b., if by so doing, the Director has sufficient information to determine potential impacts to the environment, public health or current or future beneficial uses of the waters of the state. (7-1-97)

101. -- 199. (RESERVED).

200. REQUIREMENTS FOR WATER QUALITY PROTECTION.

The following minimum design and performance standards are intended as a baseline for protection of public health and for the waters of the state. These standards shall apply to all facilities unless the Director approves, based on an applicant's site specific information that compliance with a specific standard is not required to protect water quality and the public health. (1-1-88)

01. Containment Design Criteria. A cyanidation facility shall be designed to contain the maximum expected normal operating water balance and the one hundred (100) year, twenty-four (24) hour storm event. Snowmelt events shall be considered in determining the containment capacity. Contingency plans for managing excesses of process water or process-contaminated water shall be described in the water management strategy. ~~(1-1-88)~~(7-13-05)T

02. Impoundment Design. Impoundments, other than for emergency runoff, containing or designed to contain process water shall be designed for efficient leak detection and provide for adequate leak recovery. This requirement does not apply to tailing structures more than thirty (30) feet in height which are regulated by the Idaho Department of Water Resources under Chapter 17, Title 42, Idaho Code. (1-1-88)

03. Liner Criteria. A hydraulic liner is required for leach pads and impoundments and shall: (1-1-88)

a. Be designed for a maximum coefficient of permeability of 10^{-7} cm/sec; a clay liner shall also have a minimum thickness of twelve (12) inches; (1-1-88)

b. Have a competent foundation designed to withstand the projected static and dynamic loading and projected differential settlement; (1-1-88)

c. Be structurally competent at all times until permanent closure; (1-1-88)

d. Be chemically compatible with materials contacting the liner; (1-1-88)

e. Be designed to prevent damage during loading and unloading; (1-1-88)

f. Where appropriate, ensure minimal hydraulic head above the liner. (1-1-88)

04. Water Quality Monitoring. A ground water and/or surface water monitoring program shall be required for a cyanidation facility. The monitoring program shall be dependent on location, design and operation of the cyanidation facility, and shall be capable of indicating the

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cyanidation facility's effect on the surface and/or ground water most likely to be affected by the operation. The monitoring program shall be designed to give the earliest possible detection of an unauthorized discharge. ~~(1-1-88)~~(7-13-05)T

05. Disposal or Abandonment of Leached Ore. Disposal or abandonment of the leached ore shall ensure that: (1-1-88)

a. The concentration of weak acid dissociable cyanide or free cyanide and other pollutants associated with cyanidation in process-contaminated water draining from the leached ore is reduced to a level that is based on the disposal method, location and the potential for ground water and surface water contamination, or the pH of process-contaminated water draining from the leached ore is stabilized to a pH between six point five (6.5) and nine (9.0), prior to disposal or abandonment. Mine tailing impoundments that require recycling of process water to prevent a point source discharge may be exempt from this requirement by the director; (1-1-88)

b. Structural stability of the spent-ore pile is maintained; (1-1-88)

c. Monitoring of the surface and ground water is conducted to verify that beneficial uses are maintained. (1-1-88)

06. Seasonal Closure. Prior to seasonal closure, the freeboard in process water impoundments shall be increased to a level sufficiently below normal operating volume to ensure containment design criteria. The concentration of weak acid dissociable cyanide or free cyanide and other pollutants associated with cyanidation in process or process-contaminated water shall be reduced to a level that is based on the disposal method, location and the potential for ground water and surface water contamination; or prior to disposal, process water shall be treated to a pH between six point five (6.5) and nine (9.0). (1-1-88)

07. Storage Requirements. Cyanide compounds in storage shall be physically separated and protected from other substances, such as acids and strong oxidants, that are not chemically compatible. (1-1-88)

08. Employee Education Program. The permittee shall demonstrate that a program of new employee orientation and continuing employee education is being implemented and maintained. The program shall be designed to ensure awareness and implementation of the discharge response strategy. (1-1-88)

201. -- 299. (RESERVED).

300. APPLICATION PROCESSING PROCEDURE.

01. Substantially Incomplete Applications. An application which does not, on its face, include all the requirements of Subsection 100.03, except as provided in Subsection 100.04 of these rules, will be returned to the applicant with a written list of the missing items. (7-1-97)

02. Decision. (12-31-91)

a. Except as provided in Subsection 300.01, within sixty (60) days of receipt of an

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application for a new permit or to modify an existing permit, the Director shall issue to the applicant and to the Idaho Department of Lands a notice of intent to deny a permit or notice that the Director has determined that an application is complete and the Director intends to draft a permit. Except as provided in Subsection 300.01, within thirty (30) days of receipt of an application for a small ~~mineral~~ cyanidation processing facility or a pilot facility, the Director shall issue to the applicant a notice of intent to deny or draft a permit. (~~7-1-97~~)(7-13-05)T

b. The Director may suspend the running of the sixty (60) or thirty (30) day period for no more than thirty (30) days by requesting more detailed information necessary to ensure completeness and accuracy of an application, or the applicant may suspend the running of the sixty (60) or thirty (30) day period by written request to the Director. Upon receipt of the required information by the Director, the sixty (60) or thirty (30) day period will resume. (7-1-97)

c. A notice of intent to deny the permit application shall follow the same procedures as a draft permit issued under this section. (12-31-91)

03. Basis for Permit Denial. The Director shall deny a draft or final permit if: (1-1-88)

a. The application is inaccurate or incomplete; (1-1-88)

b. The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure to protect beneficial uses of the waters of the state. (~~1-1-88~~)(7-13-05)T

04. Fact Sheet. The Director shall prepare a fact sheet, for each denial or draft permit, which briefly states the principal facts and the significant legal and policy questions considered in the Director's decision. The fact sheet shall include, when applicable: (1-1-88)

a. A brief description of the proposed cyanidation facility and the operating plan. (~~1-1-88~~)(7-13-05)T

b. A brief summary of the basis for the decision, including references to applicable requirements and supporting materials. (1-1-88)

c. Reasons why any requested conditions or alternatives to required standards do or do not appear justified. (1-1-88)

d. A description of the procedures for reaching a final decision, including: (1-1-88)

i. The beginning and ending dates of the public comment period; (1-1-88)

ii. The address where comments will be received during the comment period; (1-1-88)

iii. Any other procedures by which the public may participate in the final decision; (1-1-88)

e. The name and phone number of the agency representative to contact for additional

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information. (1-1-88)

301. -- 399. (RESERVED).

400. PUBLIC INVOLVEMENT IN PERMIT PROCEDURES.

01. Public Notice of Permit Actions. No public notice is required when a request for a permit modification or revocation is denied. The Director shall give public notice of: (1-1-88)

- a.** Receipt of an application for a permit; (1-1-88)
- b.** Any public meeting schedule; (1-1-88)
- c.** Issuance of a draft permit or a decision to deny the application for a permit; (1-1-88)
- d.** An appeal that has been granted. (1-1-88)

02. Public Notice Information. All public notices shall contain the name and address of the Department's office processing the permit action, where the application and draft permit will be available for public review, and a brief description of the public involvement procedures. (1-1-88)

03. Serving the Public Notice. Public notice of permit actions shall be given by the following methods: (1-1-88)

- a.** By mail to: (1-1-88)
 - i.** The applicant; (1-1-88)
 - ii.** Persons on a mailing list who request to be notified; (1-1-88)
 - iii.** Other appropriate government authorities; (1-1-88)
- b.** Publication in a daily or weekly major newspaper of general circulation in the area of the proposed cyanidation facility; ~~(1-1-88)~~(7-13-05)T
- c.** Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected. (1-1-88)

04. Public Comment and Public Meetings. (7-1-93)

a. Oral or written comments may be submitted by any person at a public meeting. Such meeting may be held prior to a draft permit or notice of intent to deny a permit, if the Director finds twenty-five (25) individuals, or one (1) organization representing twenty-five (25) or more members, who request a public meeting based on a water quality issue and related to the technical merits of the application. The request shall be made in writing within ten (10) days following public notice of a receipt of an application for a permit. The meeting may be presided

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by agency personnel appointed by the Director. Any person wishing to submit oral comments must sign up prior to the meeting. Oral commentaries will receive equal time to submit oral comments. To be considered in the final decision, oral comments must be submitted in writing within five (5) days following the public meeting. (1-1-88)

b. Within thirty (30) days of public notice of a draft permit or decision to deny an application for a permit, any person may submit written comments to the Department on issues raised in the notice, draft permit or decision to deny a permit. Pursuant to Section 39-106, Idaho Code, the Director has inherent authority to take oral comment on a draft permit at his discretion. (1-1-88)

c. All written comments shall be considered by the Director in making the final decision. (1-1-88)

401. -- 449. (RESERVED).

450. FINAL PERMIT DECISION.

01. Issuing the Decision. Within thirty (30) days after the close of the written public comment period on a draft permit, the Director shall issue a final permit decision. The Director shall notify the applicant and each person who requested notice of the final permit decision. This notice shall include reference to the procedures for administrative appeal under Section 996. For the purpose of this section, a final permit decision means a final decision to issue, deny, modify, or revoke a permit. (1-25-95)

02. Response to Public Comments. All written comments and information received during the comment period, together with the Department's final permit and the response to relevant written comments shall be made available to the public. This response shall: (1-1-88)

a. Specify any differences between the final permit and the draft permit and state the reasons for those differences; (1-1-88)

b. Briefly describe and respond to all relevant written comments on the draft permit or denial. (1-1-88)

03. Immediate Effect of the Permit. A valid permit authorizes the construction and operation of a cyanidation facility. (1-1-88)

04. Duration of Permit. A permit shall remain valid until the Director determines permanent closure is completed, or until such time as the permit is revoked or modified. (1-1-88)

05. Duration of a Small ~~Mineral~~ Cyanidation Processing Facility Permit. A permit for a small ~~mineral~~ cyanidation processing facility shall remain valid only until the Director determines: ~~(7-1-97)~~(7-13-05)T

a. Permanent closure is completed; or (7-1-97)

b. The lifetime allotment of one hundred twenty thousand (120,000) tons of

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processed ore is reached; or (7-1-97)

c. The cyanidation facility no longer qualifies as a small ~~mineral~~ cyanidation processing facility; or ~~(7-1-97)~~(7-13-05)T

d. One (1) person or applicant concurrently holds more than one (1) permit for a small ~~mineral~~ cyanidation processing facility where the facilities are located within ten (10) miles of each other; or ~~(7-1-97)~~(7-13-05)T

e. Operations must cease, temporarily or permanently, due to a violation of the Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," or adverse impacts to the beneficial uses of the water of the state; or (7-1-97)

f. To revoke or modify the existing permit. (7-1-97)

06. Duration of the Pilot Facility Permit. The permit to operate a pilot facility is valid: (7-1-97)

a. For one (1) year from date of issuance for a facility conducting a single test; or (7-1-97)

b. For two (2) years from date of issuance for a facility conducting multiple tests; or (7-1-97)

c. Until revoked or modified by the Department; or (7-1-97)

d. Until the facility no longer qualifies as a pilot facility. (7-1-97)

451. -- 499. (RESERVED).

500. PERMIT ISSUANCE AND CONDITIONS.

~~The following conditions shall apply to and be specified in all permits:~~ ~~(1-1-88)~~

01. Issuance. Within sixty (60) days of the Director's final determination to issue a permit, the Department shall write and issue the permit subject to considerations of the contents of the application, public comments, and responses to those public comments. (7-13-05)T

02. Conditions. The following conditions shall apply to and be specified in all permits: (7-13-05)T

~~01a.~~ **Compliance Required.** The permittee shall comply with all conditions of the permit. However, the permit shall not relieve the permittee of the responsibility to comply with all other applicable local, state, and federal laws. (1-1-88)

~~02b.~~ **Construction and Operation of Cyanidation Facility.** The permittee shall ensure that construction, operation and maintenance of the cyanidation facility proceed according to the approved design plans and specifications and the approved operating and closure plans.

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~~(1-1-88)~~(7-13-05)T

03c. As-Built Plans and Specifications. Complete and accurate record drawings and specifications, signed by a registered, professional engineer depicting actual construction shall be submitted by the permittee to the Director within thirty (30) days after the completion of the construction. Alternatively, if the construction proceeded in substantial compliance with the approved plans and specifications, a statement to the effect may be submitted by the registered, professional engineer. (1-1-88)

04d. Provide Information. The permittee shall furnish to the Director within a reasonable time, any information including copies of records required by the permit or other applicable rules, which the Director may reasonably require to determine whether cause exists for modifying or revoking the permit or to determine compliance with the permit or other applicable rules. (1-1-88)

05e. Notifications. After construction, seasonal and temporary closure, the permittee shall within seven (7) days provide written notice to the Director of operation start-ups. The permittee shall provide written notice sufficient to allow the Director to inspect all seasonal, temporary and permanent closures. (1-1-88)

06f. Entry and Access. The permittee shall allow the Director, or a designee obligated by agreement with the Director to comply with the confidentiality provisions of Section 39-111, Idaho Code, to: (1-1-88)

a.i. Enter at reasonable times upon the premises of a permitted cyanidation facility or where records required by a permit are kept; ~~(1-1-88)~~(7-13-05)T

b.ii. Have access to and copy at reasonable times any records that must be kept under the conditions of the permit; (1-1-88)

c.iii. Inspect at reasonable times any cyanidation facility, equipment, practice, or operation permitted or required by the permit; ~~(1-1-88)~~(7-13-05)T

d.iv. Sample or monitor at reasonable times, substance(s) or parameter(s) directly related to permit or regulation compliance. (1-1-88)

07g. Reporting. It shall be the permittee's responsibility to report to the Director: (1-1-88)

a.i. Orally, as soon as possible but no later than twenty-four (24) hours from the time the permittee knows or should reasonably know of any noncompliance which may endanger the public health or the environment. (1-1-88)

b.ii. In writing, within five (5) working days from the time a permittee knows or should reasonably know of any event which may be or which may result in a violation of these rules, or Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, ~~Sections 000, et seq.,~~ "Water Quality Standards and Wastewater Treatment Requirements". This report shall contain: ~~(12-31-91)~~(7-13-05)T

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~~i~~(1) A description of the event and its cause; if the cause is not known, steps taken to investigate and determine the cause; (1-1-88)

~~ii~~(2) The period of the event including, to the extent possible, times and dates; (1-1-88)

~~iii~~(3) Measures taken to mitigate or eliminate the event and protect the public health; (1-1-88)

~~iv~~(4) Steps taken to prevent recurrence of the event; (1-1-88)

~~eiii~~. In writing, confirmation of any conditions which may result in violation of any permit condition; (1-1-88)

~~div~~. In writing, when the permittee knows or should reasonably know of material relevant facts not submitted or incorrect information submitted in a permit application or any report or notice to the Director or the Department. Those facts or the correct information shall be included as a part of this report. (1-1-88)

~~08h~~. Discharge Response. If an unauthorized discharge occurs the permittee shall: (1-1-88)

~~ai~~. Report the event(s) pursuant to the reporting requirements under Subsection 500.072.g. of ~~this section~~ these rules; ~~(1-1-88)~~(7-13-05)T

~~bii~~. Implement the approved discharge response strategy. (1-1-88)

~~09i~~. Temporary Closure Plan. In the event of temporary closure, the permittee shall submit a temporary closure plan to the Director for approval. The plan shall describe the procedures, methods, and schedule to be implemented for the treatment and disposal of process water, the control of drainage from the cyanidation facility, the control of drainage from the surrounding area, and the secure storage of chemicals during the period of closure. Within thirty (30) days of receiving the plan, the Director shall approve and/or suggest modifications necessary to protect the waters of the State. The permittee shall ensure that closure complies with an approved plan. In no case shall the permittee complete temporary closure prior to implementation of the approved plan. ~~(1-1-88)~~(7-13-05)T

~~10j~~. Begin Construction. If the permittee fails to begin construction of a cyanidation facility within two (2) years of the effective date of the permit, the Director may void the permit and require a new application. ~~(1-1-88)~~(7-13-05)T

k. Permanent Closure. The permanent closure plan, as approved by the Idaho Department of Environmental Quality in coordination with the Idaho Department of Lands, shall be incorporated by reference into the Department-issued permit as a permit condition and shall be enforceable as such. The Department may evaluate permanent closure based on different performance standards than those used by Idaho Department of Lands. (7-13-05)T

501. COMPLETION OF PERMANENT CLOSURE.

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01. Implementation of a Permanent Closure Plan. Unless otherwise specified in the approved permanent closure plan, an operator must begin implementation of the approved permanent closure plan: (7-13-05)T

a. Within one (1) year of the final addition of cyanide to the ore processing circuit for pilot or small cyanidation processing facilities; or (7-13-05)T

b. Within two (2) years of the final addition of cyanide to the ore processing circuit for all other cyanidation facilities; or (7-13-05)T

c. If the product recovery phase of the cyanidation facility has been suspended for a period of more than two (2) years. (7-13-05)T

02. Submittal of a Permanent Closure Report. The operator shall submit a permanent closure report to the Department for review and approval. A permanent closure report shall be of sufficient detail for the directors of the Idaho Department of Environmental Quality and the Idaho Department of Lands to issue a determination that permanent closure, as defined in Section 002 of these rules, has been achieved. The permanent closure report shall address: (7-13-05)T

a. The effectiveness of material stabilization. (7-13-05)T

b. The effectiveness of the water management plan and adequacy of the monitoring plan. (7-13-05)T

c. The final configuration of the cyanidation facility and its operational/closure status. (7-13-05)T

d. The post-closure operation, maintenance, and monitoring requirements, and the estimated reasonable cost to complete those activities. (7-13-05)T

e. The operational/closure status of any land application site of the cyanidation facility. (7-13-05)T

f. Source control systems that have been constructed or implemented to eliminate, mitigate, or contain short and long term discharge of pollutants from the cyanidation facility, unless otherwise permitted. (7-13-05)T

g. The short and long term water quality trends in surface and ground water through the statistical analyses of the existing monitoring data collected pursuant to the ore processing by cyanidation permit. (7-13-05)T

h. Ownership and responsibility for the cyanidation facility during the defined post-closure period. (7-13-05)T

i. The future beneficial uses of the land, surface and ground waters in and adjacent to the closed facilities. (7-13-05)T

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i. How the permanent closure of the cyanidation facility complies with the Resource Conservation and Recovery Act, Hazardous Waste Management Act, Solid Waste Management Act, and appropriate rules. (7-13-05)T

502. DECISION TO APPROVE OR DISAPPROVE OF A PERMANENT CLOSURE REPORT.

01. Issuance of Director's Determination. Within sixty (60) days of receipt of a permanent closure report, the Director shall issue to the permittee a Director's determination of approval or disapproval of the permanent closure report. (7-13-05)T

02. Director's Determination to Disapprove a Permanent Closure Report. A Director's determination to disapprove a permanent closure report shall specifically identify and discuss those reasons for disapproval, any administrative actions being considered by the Director, and the permittee's options and procedures for administrative appeal. The Director's determination to disapprove a permanent closure report must include: (7-13-05)T

- a.** Identification of errors or inaccuracies in the permanent closure report. (7-13-05)T
- b.** Issues or details which require additional clarification. (7-13-05)T
- c.** Failures to fully implement the approved permanent closure plans. (7-13-05)T
- d.** Outstanding violations or other noncompliance issues. (7-13-05)T
- e.** Other issues supporting the Department's disagreement with the contents, final conclusions or recommendations of the permanent closure report. (7-13-05)T

5043. -- 649. (RESERVED).

650. FINANCIAL ASSURANCE.

01. Financial Assurance Required. ~~Prior to commencing cyanidation operations an applicant shall establish financial assurance for permanent closure of the facility meeting the requirements of these rules.~~ The permittee is required to provide financial assurance pursuant to the Idaho Surface Mining Act, Chapter 15, Title 47, Idaho Code, and the rules promulgated thereunder. The Department shall not issue a permit under these rules to a cyanidation facility unless the cyanidation facility has satisfied such financial assurance requirements. (1-1-88)(7-13-05)T

02. Amount. ~~The amount of financial assurance shall be determined by multiplying five cents (\$.05) by the number of tons of untreated processed ore and the projected number of tons to be leached with cyanide within the next calendar year; unless the permittee requests an amount based on a projection for more than one (1) year; however, the minimum amount of financial assurance shall be the sum of twenty five thousand dollars (\$25,000) and the maximum amount shall be the sum of one hundred thousand dollars (\$100,000).~~ (1-1-88)

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~~a. The amount of financial assurance shall be reviewed on an annual basis. The permittee shall submit in writing on or before December 1 each year the number of tons of untreated processed ore and the projected number of tons to be leached with cyanide for the succeeding calendar year. (1-1-88)~~

~~b. In the event there is a material change in the tons of ore leached with cyanide over the tons of ore projected under Subsection 650.02.a., the permittee shall submit written notification to the Department of the change and an adjustment will be made accordingly. (12-31-91)~~

~~03. Form. An applicant may comply with the financial assurance requirements of these rules through one (1) or more of the following options: (1-1-88)~~

~~a. A corporate surety bond evidenced by an indemnity agreement, executed by or for the applicant and a corporate surety, and payable to the Department. Corporate surety bonds shall be subject to the following conditions: (1-1-88)~~

~~i. The Department shall obtain possession of the bond. (1-1-88)~~

~~ii. The bond shall be conditioned upon the applicant's adequate performance of permanent closure under an approved closure plan. (1-1-88)~~

~~iii. The bond shall be on a form supplied by the Department. (1-1-88)~~

~~iv. The corporate surety shall be licensed to do business in the United States. (1-1-88)~~

~~b. A collateral bond evidenced by an indemnity agreement, executed by or for the applicant and payable to the Department, pledging cash deposits, negotiable bonds of the United States, this State or political subdivisions of this State, or negotiable certificates of deposit of any bank doing business in the United States. Collateral bonds shall be subject to the following conditions: (1-1-88)~~

~~i. The Department shall obtain possession, and upon receipt of such collateral bonds, deposit them with the State Treasurer to hold in trust for the purpose of bonding permanent closure. (1-1-88)~~

~~ii. The Department shall value collateral at current market value, not face value. (1-1-88)~~

~~iii. Certificates of deposit shall be issued in the name of "principal or Idaho Department of Environmental Quality" in writing and upon the records of the bank issuing such certificates. Interest may be allowed to accrue and received upon release of the bond, or be paid to the principal no more than semiannually. (1-1-88)~~

~~iv. Banks issuing certificates of deposit shall waive all rights of set-off, or liens which it has or might have against such certificates. (1-1-88)~~

~~v. All certificates of deposit shall be automatically renewable. (1-1-88)~~

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- ~~vi. All certificates of deposit shall be of sufficient amount to ensure that the Department may liquidate such certificates, upon forfeiture, for the amount of the required bonding, including penalty for early withdrawal. (1-1-88)~~
- ~~e. A corporate surety or collateral bond payable to another state agency and the Department, or the federal government, and meeting the applicable bonding requirements of these rules. (1-1-88)~~
- ~~d. One (1) or more insurance policies issued under the following conditions: (1-1-88)~~
- ~~i. The applicant shall submit a certificate of insurance to the Department. (1-1-88)~~
- ~~ii. The policy shall be issued by a company licensed to do business in the United States. (1-1-88)~~
- ~~iii. The policy shall guarantee the amount determined under Subsection 650.02 to the Department for the performance of permanent closure if the applicant fails to perform permanent closure under an approved plan. (12-31-91)~~
- ~~iv. Termination, cancellation or nonrenewal of the policy may occur only if the Department receives ninety (90) days notice from the insurance company, and the Department consents or the policy premium is not paid by the permittee. Nonpayment of the premium constitutes a violation of the provisions of this section by the permittee. The Department shall consent to termination, cancellation or nonrenewal if the permittee substitutes alternative financial surety under this section, or completes permanent closure guaranteed by the policy under an approved plan. (1-1-88)~~
- ~~e. A closure trust fund which conforms to the following conditions: (1-1-88)~~
- ~~i. The applicant shall submit a certificate of trustees acknowledgment and a signed duplicate trust agreement to the Department. (1-1-88)~~
- ~~ii. The trust agreement shall be substantially in the form appended to these rules as Appendix A, and shall guarantee payments by the trustee at the direction of the Department to implement an approved permanent closure plan if the permittee fails to adequately perform permanent closure under such a plan. (1-1-88)~~
- ~~iii. The trustee shall have authority to act as such and be regulated by a state or federal agency. (1-1-88)~~
- ~~iv. The applicant shall deposit cash in the full amount determined under Subsection 650.02 prior to commencing cyanidation operations. (12-31-91)~~
- ~~v. The trust agreement shall terminate if the permittee substitutes alternative financial surety under these rules, or the permittee completes permanent closure guaranteed by the trust fund under an approved plan. (1-1-88)~~

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~~04. Cancellation and Replacement of Bonds.~~

~~(1-1-88)~~

~~a. Any surety cancelling a bond shall give the Department and the bonded principal at least ninety (90) days notice prior to cancellation of an agreement. The Department shall not release a surety from liability under existing bonds until the permittee has submitted to the Department an acceptable replacement bond or other form of financial assurance under these rules.~~

~~(1-1-88)~~

~~b. If a surety cancels a bond or fails to maintain a valid license to do business in the United States, the permittee shall, within forty five (45) days of notice from the Department, substitute a sufficient surety. A replacement bond or other financial assurance under these rules shall cover any liability accrued against the bonded principal at the facility in addition to the amount determined under Subsection 650.02. If the permittee fails to secure a replacement bond or other alternative financial assurance under these rules, the permittee shall cease operations at the facility covered by the bond until sufficient financial assurance is filed with the Department.~~

~~(12-31-91)~~

~~05. Release of Financial Assurance. Financial assurance, or a portion thereof, required under these rules may be released as follows:~~

~~(1-1-88)~~

~~a. If at any time the value of a bond, insurance or trust is greater than the total amount of financial assurance required under Subsection 650.02, the permittee may submit a written request to the Department for release of the amount in excess of the amount required under Subsection 650.02.~~

~~(12-31-91)~~

~~b. If the permittee substitutes alternative financial assurance under these rules for all or part of a bond, insurance or trust, the permittee may submit a written request to the Department for release of the amount in excess of the financial assurance required under Subsection 650.02.~~

~~(1-1-88)~~

~~c. Upon completion of permanent closure in accordance with an approved plan, the permittee may request release from financial assurance by the Department. If the Department determines that permanent closure is in accordance with an approved plan financial assurance shall be released. If the Department determines that a portion of permanent closure has been satisfactorily completed the Department may proportionately reduce the amount of financial assurance required and release the balance.~~

~~(1-1-88)~~

~~d. Within thirty (30) days after receiving a request from a permittee for release of a bond, insurance or trust, or any portion thereof, the Department shall either order release or provide the permittee with a detailed written statement of reasons why financial assurance will not be released.~~

~~(1-1-88)~~

~~062. Insufficiency. In the event the amount of financial surety is insufficient to implement an approved permanent closure plan financial assurance is forfeited as described in the Idaho Surface Mining Act, Chapter 15, Title 47, Idaho Code, the Department may commence legal action against the permittee seek to recover the amount necessary to implement permanent closure under an approved plan the Department-issued permit and these rules as provided by law.~~

~~(1-1-88)(7-13-05)T~~

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651. -- 749. (RESERVED).

750. PERMIT MODIFICATION.

01. Cause for Permit Modification. Causes for permit modification are: (1-1-88)

a. A material ~~change~~ modification or material expansion in the cyanidation facility operation, design or closure plan. ~~(1-1-88)~~(7-13-05)T

b. Natural phenomena substantially different from those anticipated in the original permit. (1-1-88)

02. Modification at Request of Permittee. Requests for modification from the permittee shall include: (1-1-88)

a. A written description of the modification(s); (1-1-88)

b. Data supporting the modification request; (1-1-88)

c. Causes and anticipated effects of the modification. (1-1-88)

03. Modification at Request of Director. Pursuant to Subsection 750.01, if the Director determines that cause exists for permit modification, the Director shall notify the permittee in writing and request information necessary for the Director to modify the permit. (12-31-91)

04. Modification Procedure. Permit modifications shall follow the application processing, public involvement, and administrative appeal procedures of these rules. (1-1-88)

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.16 - WASTEWATER RULES

DOCKET NO. 58-0116-0501 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 7, 2005, Vol. 05-9, pages 420 through 436. After consideration of public comments, the proposed rule has been revised at Sections 004, 007, 008, 010, 201, 202, 203, 260, 400, 401, 410, 420, 430, 493, and 600. The remaining sections have been adopted as initially proposed. The proposed rule was revised for consistency with Senate Bill 1220, to clarify the applicability of these rules with respect to municipal and nonmunicipal wastewater treatment or disposal facilities, to incorporate by reference sections of the Idaho Standards for Public Works Construction, and to improve the clarity of the rules. The remaining sections have been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 7, 2005 Idaho Administrative Bulletin, Vol. 05-9, pages 420 through 436.

IDAHO CODE SECTION 39-107D STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to regulate an activity not regulated by the federal government. Part of this rulemaking involves copying certain provisions that were in IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements" (WQS), and moving them to the "Wastewater Rules". To the extent DEQ is simply moving and not changing existing standards, Section 39-107D, Idaho Code, does not apply. In addition, there is no federal law or regulation that is comparable to plan and specification review and facility standard provisions set forth in the Wastewater Rules. Therefore, the changes to the rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which "proposes to regulate an activity not regulated by the federal government." The Wastewater Rules address the review and approval of

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plans and specifications for sewage treatment plants and other waste treatment and disposal facilities and the standard by which the agency does the review and approval. This is not an activity regulated by the federal government. Therefore, Section 39-107D, Idaho Code, applies.

Section 39-107D(3), Idaho Code, provides that any rule subject to 39-107D that proposes a standard necessary to protect human health and the environment must also include in the rulemaking record and in the notice of rulemaking additional information. This additional information includes any estimates of risk accomplished, identification of populations or receptors addressed by any estimates, and other information related to an estimation of risk. The Wastewater Rules include facility standards which are intended to protect human health and the environment. The standards, however, are for the design and construction of wastewater pipelines. For example, the rules require that joints on wastewater pipes be watertight and be designed to prevent the entrance of roots. The rules are not based upon any express estimate or analysis of risk to public health or the environment. Instead, the facility standards are based upon guidelines set forth in documents, such as the "Recommended Standards for Wastewater Facilities"-2004 edition, that are generally accepted and used throughout the United States by engineers and state regulators.

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Mark Mason at mark.mason@deq.idaho.gov, (208)373-0266.

Dated this 17th day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

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PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 21, 2005. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The 2005 Legislature enacted Senate Bill 1220 requiring the Department of Environmental Quality (DEQ) to establish facility and design standards. DEQ has initiated this rulemaking to create a new rule chapter in response to that legislation. In addition, DEQ proposes to address other wastewater issues for adoption in the new rule chapter. This rulemaking includes the following:

- 1) Certain wastewater treatment requirements and definitions have been copied from IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," revised as necessary, and inserted into this new proposed rule chapter. A separate proposed rule docket (58-0102-0504) has been initiated for the purpose of deleting from IDAPA 58.01.02 those sections and definitions that are either unnecessary to remain in rule or have been copied and moved to the proposed rule chapter (IDAPA 58.01.16).
- 2) Create standards for design of wastewater collection system line extensions.
- 3) Extend wastewater land application operator compliance deadline by 12 months or until April 15, 2007 to allow sufficient time for land application operators to become licensed.
- 4) Clarify operator licensure requirements for large soil absorption systems with multiple owners.
- 5) Clarify operator licensure requirements for Class A effluent distribution systems.
- 6) Add necessary definitions.
- 7) Add the standard rule sections necessary for conformance with IDAPA 44.01.01, "Rules of the Administrative Rules Coordinator".

Wastewater system owners and operators, developers, consultants, engineers, cities, counties, industry, wastewater professional organizations, and the public at large may be interested commenting on this proposed rule.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

SECTION 39-107D IDAHO CODE STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to

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regulate an activity not regulated by the federal government. Part of this rulemaking involves copying certain provisions that were in IDAPA 58.01.02, “Water Quality Standards and Wastewater Treatment Requirements” (WQS), and moving them to the proposed “Wastewater Rules.” To the extent DEQ is simply moving and not changing existing standards, Section 39-107D, Idaho Code, does not apply. In addition, there is no federal law or regulation that is comparable to plan and specification review and facility standard provisions set forth in the proposed Wastewater Rules. Therefore, the proposed changes to the rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which “proposes to regulate an activity not regulated by the federal government”. The proposed Wastewater Rules address the review and approval of plans and specifications for sewage treatment plants and other waste treatment and disposal facilities and the standard by which the agency does the review and approval. This is not an activity regulated by the federal government. This is an activity, however, that DEQ has regulated for years pursuant to Section 39-118, Idaho Code, and DEQ's WQS. To the extent DEQ is not proposing any new regulation of activities, Section 39-107D, Idaho Code, is most likely not applicable.

During the 2005 legislative session, the Idaho Legislature passed SB 1220. Among other things, this legislation amended Section 39-118, Idaho Code, so that it requires that all plans and specifications reviewed by DEQ, or by others as allowed under the new law, comply with “facility and design standards”. The legislation then directs DEQ to work with professional engineers to establish such standards. In the past, DEQ reviewed the plans and specifications according to the WQS. The WQS referenced the “Recommended Standards for Sewage Works” as the principle tool DEQ would use in its review process. The proposed Wastewater Rules also reference an updated version of the “Recommended Standards for Sewage Works” as a tool to guide agency review. The proposed rules, however, also add explicit facility standards that must be met in the review and approval process. In this way, the proposed rules appear to modify the existing DEQ regulatory program. Under these circumstances, it is unclear whether the proposed rules are subject to the provisions of Section 39-107D, Idaho Code.

Assuming Section 39-107D, Idaho Code, is applicable, 39-107D(3) provides that any rule subject to 39-107D that proposes a standard necessary to protect human health and the environment must also include in the rulemaking record and in the notice of rulemaking additional information. This additional information includes any estimates of risk accomplished, identification of populations or receptors addressed by any estimates, and other information related to an estimation of risk. The proposed Wastewater Rules include facility standards which are intended to protect human health and the environment. The standards, however, are for the design and construction of waste treatment and disposal facilities. For example, the rules require that joints on wastewater pipes be watertight and be designed to prevent the entrance of roots. The rules are not based upon any express estimate or analysis of risk to public health or the environment. Instead, the facility standards are based upon guidelines set forth in documents, such as the “Recommended Standards for Wastewater Facilities” - 2004 edition, that are generally accepted and used throughout the United States by engineers and state regulators.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative

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impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, June 1, 2005, Vol. 05-6, page 47.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Mark Mason at (208) 373-0266 or Mark.Mason@deq.idaho.gov.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before October 5, 2005.

Dated this 3rd day of August, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

IDAPA 58 TITLE 01 CHAPTER 16

58.01.16 - WASTEWATER RULES

000. LEGAL AUTHORITY.

Under Chapters 1 and 36, Title 39, Idaho Code, the Idaho Legislature has granted the Board of Environmental Quality the authority to promulgate these rules. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 58.01.16, "Wastewater Rules". ()

02. Scope. These rules establish the procedures and requirements for the planning, design and operation of wastewater facilities and the discharge of wastewaters and human activities which may adversely affect public health and water quality in the waters of the state. ()

002. WRITTEN INTERPRETATIONS.

As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If

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available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. ()

003. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". ()

004. INCORPORATION BY REFERENCE.

Sections 401 and 501.3.4 of "Idaho Standards for Public Works Construction," 2005 Edition, are incorporated by reference into these rules. These documents are available at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502 or, for a fee, from the Local Highway Technical Assistance Council (LHTAC) at LHTAC, 3330 Grace Street, Boise, ID, 83703, (208) 344-0565. ()

005. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8 a.m. to 5 p.m. Monday through Friday. ()

006. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 9, Chapter 3, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality". ()

007. REFERENCED MATERIAL.

01. "Recommended Standards for Wastewater Facilities." 2004 Edition, *A Report of the Wastewater Committee of the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers* (except Chapters 10, 20, and 30). This document, and subsequent revisions of this document, provides assistance in applying and interpreting these rules. This document is available through Health Education Services at <http://www.hes.org>. ()

02. Memorandum of Understanding. The Memorandum of Understanding between the Idaho Department of Environmental Quality and the Idaho Division of Building Safety Plumbing Bureau signed and dated April 4, 2003 provides assistance in determining jurisdiction over water and sewer service lines. Copies of the document are available at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, www.deq.idaho.gov. ()

03. "Idaho Standards for Public Works Construction." 2005 Edition. This document, and subsequent revisions of this document, provides assistance in applying and interpreting these rules. This document is available for a fee through the Local Highway Technical Assistance Council (LHTAC) at LHTAC, 3330 Grace Street, Boise, ID, 83703, (208) 344-0565. ()

008. USE OF GUIDANCE IN DESIGN AND REVIEW.

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Guidance documents are to be used to assist both designers and reviewers in determining a reasonable way to achieve compliance with the rules. Nothing in these rules makes the use of a particular guidance or guidance document mandatory. If the plans and specifications comply with applicable facility standards and design standards as set out in these rules, Section 39-118, Idaho Code, requires that the reviewing authority not substitute his or her judgment for that of the design engineer concerning the manner of compliance. If the design engineer needs assistance as to how to comply with a particular rule, the design engineer may use the referenced guidance documents for that assistance. However, the design engineer may also use other guidance or provide documentation to substantiate his or her own professional judgment. ()

009. (RESERVED).

010. DEFINITIONS.

For the purpose of the rules contained in IDAPA 58.01.16, "Wastewater Rules," the following definitions apply: ()

01. Available. Based on public wastewater system size, complexity, and variation in raw waste, a licensed wastewater operator must be on site, on call, or able to be contacted as needed to initiate the appropriate action for normal or emergency conditions in a timely manner. ()

02. Beneficial Use. Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. ()

03. Biochemical Oxygen Demand (BOD). The measure of the amount of oxygen necessary to satisfy the biochemical oxidation requirements of organic materials at the time the sample is collected; unless otherwise specified, this term will mean the five (5) day BOD incubated at twenty (20) degrees C. ()

04. Board. The Idaho Board of Environmental Quality. ()

05. Class A Effluent. Class A effluent is treated municipal reclaimed wastewater that must be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. For comprehensive Class A Effluent criteria and permitting requirements refer to IDAPA 58.01.17, "Wastewater Land Application Permit Rules". ()

06. Class A Effluent Distribution System. The delivery system for Class A effluent. The distribution system does not include any of the collection or treatment portions of the wastewater facility and is not subject to operator licensing requirements in Section 203 of these rules. ()

07. Collection System. That portion of the wastewater system in which wastewater is received from the premises of the discharger and conveyed to the point of treatment through a

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series of lines, pipes, manholes, pumps/lift stations and other appurtenances. ()

08. Compliance Schedule or Schedule of Compliance. A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard. ()

09. Department. The Idaho Department of Environmental Quality. ()

10. Design Flow. The critical flow used for steady-state wasteload allocation modeling. ()

11. Designated Beneficial Use or Designated Use. Those beneficial uses assigned to identify waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards," Sections 110 through 160, whether or not the uses are being attained. ()

12. Director. The Director of the Idaho Department of Environmental Quality or his authorized agent. ()

13. Discharge. When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. ()

14. Disinfection. A method of reducing the pathogenic or objectionable organisms by means of chemicals or other acceptable means. ()

15. Disposal Facility. Any facility used for disposal of any wastewater. ()

16. Effluent. Any wastewater discharged from a treatment facility. ()

17. EPA. The United States Environmental Protection Agency. ()

18. Facility Standards and Design Standards. Facility standards and design standards are described in Sections 400, 410, 420, and 430 of these rules. Facility and design standards found in Sections 410, 420, and 430 of these rules must be followed in the planning, design, construction, and review of *municipal* wastewater facilities. ()

19. Geometric Mean. The geometric mean of "n" quantities is the "nth" root of the product of the quantities. ()

20. Ground Water. Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. ()

21. Industrial Wastewater. Any waste, together with such water as is present, that is the by-product of industrial processes including, but not limited to, food processing or food washing wastewater. ()

22. Land Application. A process or activity involving application of wastewater, surface water, or semi-liquid material to the land surface for the purpose of disposal, pollutant removal, or ground water recharge. ()

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23. License. A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. ()

24. Material Deviation. A change from the design plans that significantly alters the type or location of facilities, requires engineering judgment to design, or impacts the public safety or welfare. ()

25. Material Modification. Material modifications are those that are intended to increase system capacity or to alter the methods or processes employed. ()

26. Mixing Zone. A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. ()

27. Municipal Wastewater. Unless otherwise specified, sewage and associated solids, whether treated or untreated, together with such water that is present. Also called domestic wastewater. Industrial wastewater may also be present, but is not considered part of the definition. ()

28. National Pollutant Discharge Elimination System (NPDES). Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. ()

29. Natural Background Conditions. No measurable change in the physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed. ()

30. Nephelometric Turbidity Units (NTU). A measure of turbidity based on a comparison of the intensity of the light scattered by the sample under defined conditions with the intensity of the light scattered by a standard reference suspension under the same conditions. ()

31. Nuisance. Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. ()

32. Nutrients. The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. ()

33. Non-Potable Mains. The pipelines that collect and convey non-potable discharges from or to multiple service connections. ()

34. Non-Potable Services. The pipelines that convey non-potable discharges from individual facilities to a connection with the non-potable main. This term also refers to pipelines that convey non-potable water from a pressurized irrigation system, reclaimed wastewater system, and other non-potable systems to individual consumers. ()

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35. Operating Personnel. Any person who is employed, retained, or appointed to *conduct the tasks associated with the day-to-day operation and maintenance of a public wastewater system. Operating personnel shall include every person making system control or system integrity decisions about water quantity or water quality that may affect public health.*

()

36. Owner. For purposes of Sections 202 through 204, the person, company, corporation, district, association or other organizational entity that owns the public wastewater system, and who provides, or intends to provide wastewater service to system users and is ultimately responsible for the public wastewater system operation.

()

37. Person. An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties.

()

38. Point Source. Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged to surface waters of the state. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition.

()

39. Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities.

()

40. Potable Water. A water which is free from impurities in such amounts that it is safe for human consumption without treatment.

()

41. Potable Water Mains. Pipelines that deliver potable water to multiple service connections.

()

42. Potable Water Service. Pipelines that convey potable water from a connection to the potable water main across private property to individual consumers.

()

43. Primary Treatment. Processes or methods that serve as the first stage treatment of wastewater, intended for removal of suspended and settleable solids by gravity sedimentation; provides no changes in dissolved and colloidal matter in the sewage or wastes flow.

()

44. Public Wastewater System or Wastewater System. For purposes of Sections 202 through 204, a public wastewater system or wastewater system is any publicly or privately owned collection system or treatment system that generates, collects, or treats two thousand five

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hundred (2,500) or more gallons of wastewater per day. This does not include any wastewater treatment system operated and maintained exclusively by a single family residence or any wastewater system consisting solely of a gravity flow, non-mechanical septic tank and subsurface treatment and distribution system, any wastewater system with individual septic tanks and individual pump stations that discharge to a common gravity flow subsurface treatment and distribution system when ownership of each septic tank and pumping station is by individual property owner and ownership of the common system is by a public or private entity; any animal waste system used for agricultural purposes that have been constructed in part or whole by public funds, or industrial wastewater systems under private ownership. ()

45. Quasi-Municipal Corporation. A public entity, other than community government, created or authorized by the legislature to aid the state in, or to take charge of, some public or state work for the general welfare. For the purpose of these rules, this term refers to wastewater or sewer districts. ()

46. Receiving Waters. Those waters which receive pollutants from point or nonpoint sources. ()

47. Recharge. The process of adding water to the zone of saturation. ()

48. Recharge Water. Water that is specifically utilized for the purpose of adding water to the zone of saturation. ()

49. Responsible Charge (RC). For purposes of Sections 202 through 204, responsible charge means, active, daily on-site and/or on-call responsibility for the performance of operations or active, on-going, on-site and/or on-call direction of employees and assistants. ()

50. Responsible Charge Operator. For purposes of Sections 202 through 204, a responsible charge operator is an operator licensed at a class equal to or greater than the classification of the system and who has been designated by the system owner to have direct supervision of and responsibility for the performance of operations of a specified wastewater treatment system(s) or wastewater collection system(s) and the direction of personnel employed or retained at the same system. The responsible charge operator has an active daily on-site and/or on-call presence at the specified facility. ()

51. Reviewing Authority. For those projects requiring preconstruction approval by the Department, the Department is the reviewing authority. For those projects allowing for preconstruction approval by others, pursuant to Subsection 400.01.b. of these rules, the qualified licensed professional engineer is also the reviewing authority. ()

52. Sanitary Sewer Extension. As used in Section 400, an extension of an existing wastewater collection system that does not require a lift station or force main and is intended to increase the service area of the wastewater collection system. ()

53. Secondary Treatment. Processes or methods for the supplemental treatment of wastewater, usually following primary treatment, to affect additional improvement in the quality of the treated wastes by biological means of various types which are designed to remove or modify organic matter. ()

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54. Sewage. The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. ()

55. Sludge. The semi-liquid mass produced by partial dewatering of potable or spent process waters or wastewater. ()

56. Special Resource Water. Those specific segments or bodies of water which are recognized as needing intensive protection: ()

a. To preserve outstanding or unique characteristics; or ()

b. To maintain current beneficial use. ()

57. State. The state of Idaho. ()

58. Substitute Responsible Charge Operator. A public wastewater operator holding a valid license at a class equal to or greater than the public wastewater system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. ()

59. Surface Water Body. All surface accumulations of water, natural or artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. This includes, but is not limited to, rivers, streams, canals, ditches, lakes, and ponds. It does not include private waters as defined in Section 42-212, Idaho Code. ()

60. Treatment. A process or activity conducted for the purpose of removing pollutants from wastewater. ()

61. Treatment Facility. Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishing thereof and their appurtenances. A treatment *facility* may also be known as a treatment *system*, waste treatment system, waste treatment facility, or waste treatment plant. ()

62. User. Any person served by a public wastewater system. ()

63. Wastewater. Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present. ()

64. Wastewater Lagoon. Manmade impoundments for the purpose of storing or treating wastewater. ()

65. Wastewater Pipelines. The pipelines that collect and convey non-potable discharges from or to multiple service connections. ()

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66. Wastewater System. Wastewater system includes any *collection system*, treatment system, or disposal facility. ()

67. Wastewater System Operator. The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater treatment or collection system in order to safeguard the public health and environment. ()

68. Water Main Extension. An extension of the distribution system of an existing public water system that does not require a booster pumping station and is intended to increase the service area of the water system. ()

69. Water Pollution. Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. ()

70. Waters and Waters of the State. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. ()

71. Watershed. The land area from which water flows into a stream or other body of water which drains the area. ()

011. -- 200. (RESERVED).

201. POINT SOURCE WASTEWATER TREATMENT REQUIREMENTS.

01. Appropriate Control Measures. The Department, through approval or disapproval of plans for wastewater treatment and disposal facilities, the issuance of wastewater discharge permits, orders, compliance schedules, directives or any of the mechanisms at its disposal, will require persons to apply appropriate control measures necessary to achieve and maintain the water quality standards contained in IDAPA 58.01.02, "Water Quality Standards". ()

02. Degree of Treatment. The degree of wastewater treatment required to restore and maintain the standards of quality will be determined in each instance by the Department, based upon the following: ()

- a.** The uses which are made or desired of the receiving water; ()
- b.** The volume and nature of flow of the receiving water; ()
- c.** The quantity and quality of the wastewater to be treated; and ()
- d.** The presence or absence of other sources of water pollution on the same

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watershed, stream segment or aquifer. ()

03. Operation. Any person who owns or operates any sewage or other wastewater treatment facility must at all times: ()

a. Insure that such facility is operated under competent supervision and with the highest efficiency that can reasonably be expected; and ()

b. Maintain such facility in good repair. ()

04. Treatment Records. Any person who owns or operates any facility or carries out any operation which results in the discharge of wastewater must furnish to the Department such information concerning quality and quantity of discharged wastewaters and maintain such treatment records as the Department requires to evaluate the effects of any receiving waters. Required information can include, but is not limited to: ()

a. Treated wastewater discharge volumes; and ()

b. Treated wastewater discharge *biochemical oxygen demand* (BOD); and ()

c. Treated wastewater discharge suspended solid concentration; and ()

d. Discharge pH; and ()

e. Discharge temperatures. ()

05. Falsification of Records. It is a violation of these rules for any person to falsify or knowingly render inaccurate any treatment record which can be required as provided in these regulations. ()

202. CLASSIFICATION OF PUBLIC WASTEWATER SYSTEMS.

01. Classification Requirement. All public wastewater systems shall be classified based on indicators of potential health risks. ()

a. Classification rating forms developed in accordance with the criteria in Subsection 202.02 must be completed by the public wastewater system owner or designee for every public wastewater treatment system and wastewater collection system no later than July 1, 2008. Public wastewater treatment and wastewater collection system owners or designee shall submit additional classification rating forms at five (5) year intervals detailing existing conditions.()

b. The Department shall review system classification rating forms submitted by the public wastewater treatment and wastewater collection system owners at five (5) year intervals and classify the systems to reflect the condition at the time of the initial classification, or changed conditions, if any, on subsequent submittals. ()

02. Classification Criteria. Public wastewater treatment systems and wastewater collection systems shall be classified under a system that uses the following criteria: ()

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- a. Complexity, size, volume and variability in raw waste for treatment systems using guidelines established by the Department. ()
- b. Complexity or size of collection systems. ()
- c. Other criteria deemed necessary to completely classify systems. ()

203. PUBLIC WASTEWATER SYSTEM OPERATOR LICENSURE REQUIREMENTS.

01. System Operator Licensure Requirement. Owners of all public wastewater systems must place the direct supervision of their wastewater system(s), including each treatment system and each collection system, under the responsible charge of an operator who holds a valid license equal to or greater than the classification of the wastewater treatment system and collection system. An operator in responsible charge of both a wastewater treatment system and a collection system shall hold two (2) licenses, one (1) for wastewater treatment and one (1) for collection. Owners shall notify the Department in writing of any change of responsible charge or substitute responsible charge operator within ten (10) days of such change. ()

02. Responsible Charge Operator License Requirement. An operator in responsible charge of a public wastewater system in Idaho must hold a valid license equal to or greater than the classification of the wastewater system(s), including each treatment system, where present, and each collection system as determined by the Department. ()

03. Substitute Responsible Charge Operator. At such times as the responsible charge operator is not available, a substitute responsible charge operator shall be designated to replace the responsible charge operator. ()

04. Wastewater System Operator Licensure. All other operating personnel at public wastewater systems including each treatment system and collection system must hold a valid license. ()

05. Class A Reclaimed Wastewater System Operator License Exception. Any public wastewater system operating personnel that exclusively operate a Class A Effluent Distribution System of a Class A Municipal Reclaimed Wastewater System permitted in accordance with IDAPA 58.01.17, "Wastewater Land Application Permit Rules," is not subject to operator licensing requirements. ()

06. General Compliance Deadline. All public wastewater systems addressed in Sections 202 and 203 shall be in compliance with these rules by April 15, 2006. ()

07. Land Application Operator Compliance Deadline. Each *public* wastewater land application system addressed in these rules shall employ, retain or contract with licensed land application operating personnel by April 15, 2007. ()

08. Qualifications for Operator Licensure. All *public* wastewater system operating personnel, including responsible charge and substitute responsible charge operators, must qualify

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for and hold a valid license issued by the Idaho Bureau of Occupational Licenses. ()

204. CONTRACTING FOR SERVICES.

Public wastewater systems may contract with a licensed public wastewater system operator or with a public wastewater system having licensed operators to provide supervision. The contracted public wastewater system operator or contracted entity shall employ and assign to that system an operator licensed at the grade equal to or greater than the classification of the system. ()

205. -- 259. (RESERVED).

260. SUBSURFACE SEWAGE OR WASTE DISPOSAL.

Subsurface sewage or wastewater disposal facilities must be designed and located so that pollutants cannot be reasonably expected to enter water of the state in concentrations resulting in injury to beneficial uses. *See also IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules"*. ()

261. -- 399. (RESERVED).

400. REVIEW OF PLANS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES.

All applicable laws, rules and standards shall be used in the review of plans and specifications for *municipal* wastewater treatment or disposal facilities. "Recommended Standards for Wastewater Facilities," - 2004 edition, *A Report of the Wastewater Committee of the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers* (except Chapters 10, 20, and 30) shall be used as guidance in the review of plans and specifications for *municipal* wastewater treatment or disposal facilities. ()

01. Plan and Specification Review. ()

a. Except as provided in Subsection 400.01.b., all plans and specifications for the construction of new sewage systems, sewage treatment plants or systems, other *municipal* wastewater treatment or disposal facilities, or for material modifications to existing sewage treatment plants or systems, *municipal* wastewater treatment or disposal facilities shall be submitted to the Department for review and approval before construction may begin and all construction shall be in substantial compliance therewith. The Department shall review plans and specifications and endeavor to resolve design issues within forty-two (42) calendar days of submittal such that approval can be granted. If the Department and applicant have not resolved design issues within forty-two (42) calendar days or at any time thereafter, the applicant may file a written demand to the Department for a decision. Upon receipt of such written demand, the Department shall deliver a written decision to the applicant within no more than seven (7) calendar days explaining any reasons for disapproval. The Department shall maintain records of all written demands for decision made pursuant to Subsection 400.01.a. with such records including the final decision rendered and the timeliness thereof. No material deviation shall be made to the approved plans and specifications without the prior approval of the Department. ()

b. Plans developed for sanitary sewer extensions, when such facilities will be owned and operated by a city, county, quasi-municipal corporation or regulated public utility, shall not

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require preconstruction approval by the Department, provided that such plans and specifications are reviewed and approved by *another* qualified Idaho licensed professional engineer to verify compliance with the requirements of these rules prior to initiation of construction. Any plans approved pursuant to Subsection 400.01.b. shall be transmitted to the Department at the time construction is authorized along with a statement that the plans comply with the requirements of these rules and that construction has been authorized by the city, county, quasi-municipal corporation or regulated public utility that will own and operate the system. At the discretion of the city, county, quasi-municipal corporation or regulated public utility, the plans addressed by this subsection may be referred to the Department for review and approval prior to initiation of construction. ()

02. Professional Engineer. Plans and specifications for construction, alteration or expansion of any sewage system, sewage treatment plant or system, or other *municipal wastewater* treatment or disposal facility shall be prepared by or under the supervision of an Idaho registered professional engineer and shall bear the imprint of the engineer's seal. Construction shall be observed by a registered professional engineer or a person under the supervision of a registered professional engineer. ()

03. Record Plans and Specification. Within thirty (30) calendar days of the completion of construction of facilities covered by Subsection 400.01, record plans and specifications based on information provided by the construction contractor and field observations made by the engineer or the engineer's designee depicting the actual construction of facilities performed, must be submitted to the Director by the engineer representing the city, county, quasi-municipal corporation or regulated public utility that owns the project, or by the design engineer or owner-designated substitute engineer if the constructed facilities will not be owned and operated by a city, county, quasi-municipal corporation or regulated public utility. Such submittal by the professional engineer must confirm material compliance with the approved plans and specifications or disclose material deviations therefrom. If the construction does not materially deviate from the approved plans and specifications, the owner may have a statement to that affect prepared by a qualified Idaho licensed professional engineer and filed with the Department in lieu of submitting a complete and accurate set of record drawings. ()

04. Compliance With Applicable Standards and Rules. All plans and specifications submitted to satisfy the requirements of Section 400 or approved in compliance with Section 400, shall be in compliance with the requirements of these rules and shall conform in style and quality to regularly accepted engineering standards. The Department shall review plans and specifications to determine compliance with these rules and engineering standards of care. If the plans and specifications comply with these rules and engineering standards of care, the Department shall not substitute its judgment for that of the owner's design engineer concerning the manner of compliance with these rules. ()

05. Waiver of Approval Requirement. The Department may waive the plan and specification approval for any particular facility or category of facilities which will have no significant impact on the environment or on the public health. ()

401. REVIEW OF PLANS FOR NONMUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES.

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01. Plan and Specification Approval Required. The construction, alteration or expansion of any nonmunicipal wastewater treatment or disposal facility must not begin before plans and specifications for the proposed facility have been submitted to and approved by the Department. Deviations may be allowed as provided in Subsection 401.02. The Department does not require review of industrial in-plant processes. ()

02. Deviations From Approved Plans. No deviations are to be made from the approved plans and specifications without prior approval of the Department. ()

03. Record Plans and Specifications. If actual construction deviates from the approved plans and specifications, complete and accurate plans and specifications depicting the actual construction, alteration, or modification performed, shall be submitted to the Department for review and approval within thirty (30) days of completion of construction. ()

04. Waiver of Approval Requirement. The Department can waive the plan and specification approval required in Subsection 401.01 for any particular facility or category of facilities which will have no significant impact on the environment or on the public health. ()

402. -- 409. (RESERVED).

410. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES - ENGINEERING REPORTS AND FACILITY PLANS.

01. Engineering Reports and Facility Plans Required. Engineering Reports and current Facility Plans are required for *municipal wastewater treatment or disposal facilities* and shall address hydraulic capacity, treatment capacity, project financing, and operation and maintenance considerations sufficiently to determine the effects of the project on the overall wastewater infrastructure. Engineering Reports must be completed for minor collection system, pump station, and interceptor projects. *Comprehensive Facility Plans are not required for minor or routine collection systems.* Comprehensive Facility Plans must be completed or have been completed for projects involving new, expanded, upgraded, or rehabilitated *municipal* wastewater treatment or disposal facilities and major collection, interceptor sewer, and pump station projects and address the entire potential service area of the project. The determination of classification as major or minor collection interceptor sewer and pump station projects will be made by the reviewing authority based on review of recommended classification by the owner. ()

02. Submittal to Reviewing Authority. Documents referenced in Subsection 410.01 must be submitted to the reviewing authority for review and approval, unless the reviewing authority already has the reports and plans in its possession. ()

03. Engineering Report or Facility Plan Contents. The Engineering Report or Facility Plan must include sufficient detail to demonstrate that the proposed project meets applicable criteria. The Engineering Report or Facility Plan typically identifies and evaluates wastewater related problems; assembles basic information; presents criteria and assumptions; examines alternate projects, with preliminary layouts and cost estimates; describes financing methods, sets forth anticipated charges for users; reviews organizational and staffing requirements; offers a conclusion with a proposed project for client consideration; and outlines

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official actions and procedures to implement the project. ()

411. -- 419. (RESERVED).

420. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES - SUBMISSION OF PLANS AND SUPPORT DOCUMENTS.

Submissions to the reviewing authority for construction of *municipal wastewater treatment or disposal facilities* shall include sealed plans and specifications, design criteria, the appropriate construction permit applications, review forms, and permit fee if required. The plans and specifications shall contain sufficient detail to allow for the contracting and construction of the wastewater systems. ()

421. -- 429. (RESERVED).

430. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES - DESIGN AND CONSTRUCTION OF WASTEWATER PIPELINES.

01. Design Capacity and Design Flow. In general, sewer capacities shall be designed for the estimated ultimate tributary population, except in considering parts of the systems that can be readily increased in capacity. ()

02. Details of Design and Construction. ()

a. Minimum Pipe Size. Minimum pipe size shall be based on cleaning capability and hydraulic capacity, and shall conform with the required planning documents. ()

b. Depth. Wastewater pipelines shall be installed sufficiently deep or specifically designed to prevent freezing and to protect the facilities from surface loading. ()

c. Buoyancy. Buoyancy of wastewater pipelines shall be considered and flotation of the pipe shall be prevented with appropriate construction where high groundwater conditions are anticipated. ()

d. Slope. Wastewater pipelines shall be designed to have sufficient slope and velocity to “self clean” or transport constituent solids to the treatment facility or the owner shall periodically service wastewater pipelines to flush, transport, or remove solids from wastewater pipelines with minimal velocities. ()

e. Materials. ()

i. Any generally accepted material for wastewater pipelines will be given consideration. The material selected should be adapted to local conditions, such as: character of industrial wastes, possibility of septicity, soil characteristics, exceptionally heavy external loadings, abrasion, corrosion, and similar problems. ()

ii. Couplings complying with applicable standard specifications shall be used for

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joining dissimilar materials. ()

iii. For new pipe materials for which standards have not been established, the design engineer shall provide complete pipe specifications and installation specifications developed on the basis of criteria adequately documented and certified in writing by the pipe manufacturer to be satisfactory for the specific application. ()

f. Installation. Installation specifications shall contain appropriate requirements based on the criteria, standards, and requirements established by industry in its technical publications. Reference Idaho Standards for Public Works Construction, 2005 Edition, and subsequent revisions, for assistance in designing such specifications. ()

g. Joints and Infiltration. ()

i. The installation of joints and the materials used shall be included in the specifications. Wastewater pipeline joints shall be designed to minimize infiltration and to prevent the entrance of roots throughout the life of the system. Reference Idaho Standards for Public Works Construction, 2005 Edition, and subsequent revisions, for assistance in designing such specifications. ()

ii. Service connections to the wastewater pipeline main shall be water tight and not protrude into the wastewater pipelines. If a saddle type connection is used, it shall be a device designed to join with the types of pipe which are to be connected. All materials used to make service connections shall be compatible with each other and with the pipe materials to be joined and shall be corrosion proof. ()

h. Manholes. Manholes shall be installed at the end of each line; at all changes in grade, size, or alignment; at all intersections. Cleanouts may be used only for special conditions and shall not be substituted for manholes nor installed at the end of laterals greater than one hundred fifty (150) feet in length. ()

i. Testing. Testing shall conform with Section 500.3.4 of the "Idaho Standards for Public Works Construction". ()

j. Inverted Siphons. Inverted siphons shall have not less than two (2) barrels. They shall be provided with necessary appurtenances for maintenance, convenient flushing, and cleaning equipment. Design shall provide sufficient head and appropriate pipe sizes to secure sufficient velocities for design average flows. ()

k. Wastewater Pipelines in Relation to Surface Water Bodies. The top of all wastewater pipelines entering or crossing surface water bodies shall be at a sufficient depth below the natural bottom of the bed or otherwise designed to protect the wastewater pipeline. ()

i. Wastewater pipelines located along surface water bodies shall be located outside of the bed and sufficiently removed therefrom to provide for future possible stream widening and to prevent pollution by siltation during construction. ()

ii. Structures. Wastewater pipeline outfalls, headwalls, manholes, gate boxes, or other

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structures shall be designed to address anticipated flood flows of the surface water bodies. ()

iii. Alignment. Wastewater pipelines crossing surface water bodies should be designed to cross the surface water body as nearly perpendicular to the surface water body flow as possible and shall be free from change in grade. ()

iv. Materials. Wastewater pipelines entering or crossing surface water bodies shall be constructed of *water transmission pressure rated pipe with restrained joints conforming to Section 401 of the 'Idaho Standards for Public Works Construction'* or other suitable pipe with restrained joints *capable of being installed to remain watertight* and free from changes in alignment or grade. Material used to back-fill the trench shall be *concrete slurry*, stone, coarse aggregate, washed gravel, or other materials which will not readily erode, cause siltation, damage pipe during placement, or corrode the pipe. ()

v. Siltation and Erosion. Construction methods that will minimize siltation and erosion shall be employed. ()

l. Aerial Crossings. Support shall be provided for all joints in pipes utilized for aerial crossings. Restrained joints or structural casings are required. ()

m. Cross Connections Prohibited. There shall be no physical connections between a public or private potable water supply system and a wastewater pipeline, or appurtenance thereto, which would permit the passage of any wastewater or polluted water into the potable supply. No water pipe shall pass through or come into contact with any part of a wastewater pipeline manhole. ()

n. Protection of Water Sources, Supplies. When wastewater pipelines are proposed in the vicinity of any drinking water sources or supplies or other drinking water facilities, requirements of IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," shall be used to confirm acceptable isolation distances. ()

o. Relation to Potable Water Mains. ()

i. Non-potable mains in relation to potable water mains. ()

(1) Parallel installation requirements. ()

(a) Greater than ten (10) feet separation: no conditions. ()

(b) Ten (10) feet to six (6) feet separation: separate trenches, with potable main above non-potable main, and non-potable main constructed with potable-water class pipe. ()

(c) Less than six (6) feet separation: engineer to submit data to the Department for review and approval that this installation will protect public health and environment and non-potable main constructed with potable-water class pipe. ()

(d) Never in same trench. ()

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- (2) Non-potable mains crossing potable water mains requirements. ()
 - (a) Eighteen (18) inches or more vertical separation with potable water main above non-potable main: non-potable main joint as far as possible from potable water main. ()
 - (b) Less than eighteen (18) inches vertical separation: non-potable main constructed with potable water class pipe and non-potable main joint as far as possible from potable water main; or sleeve non-potable pipe with potable water class pipe for ten (10) feet either side of crossing. ()
- ii. Non-potable services in relation to potable water services and non-potable services in relation to potable water mains. The Department will use the Memorandum of Understanding with the Plumbing Bureau as guidance in determining the relative responsibilities for reviewing service lines. ()
 - (1) Parallel installation requirements. ()
 - (a) Greater than six (6) feet separation: no conditions. ()
 - (b) Less than six (6) feet separation: engineer to submit data that this installation will protect public health and environment and non-potable service constructed with potable water class pipe. ()
 - (c) Never in same trench. ()
 - (2) Non-potable services crossing potable water services or potable water mains requirements. ()
 - (a) Eighteen (18) inches or more separation with potable water service or main above non-potable service: non-potable main joint as far as possible from potable water main. ()
 - (b) Less than eighteen (18) inches separation or potable water service or main below non-potable service: non-potable service or main constructed with potable water class pipe and non-potable main joint as far as possible from potable water main; or sleeve non-potable pipe with potable water class pipe for ten (10) feet either side of crossing. ()

431. -- 599. (RESERVED).

600. LAND APPLICATION OF WASTEWATER(S) OR RECHARGE WATERS.

Land application of wastewater or recharge waters is subject to the following requirements:

01. Land Application Permit. Idaho Department of Environmental Quality Rules, IDAPA 58.01.17, "Wastewater Land Application Permit Rules," require a permit prior to land application of certain types of wastewater. ()

02. Applied Waters Restricted to Premises. Wastewater(s) or recharge waters applied to the land surface must be restricted to the premises of the application *site*. *Wastewater*

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discharges to surface water that require a permit under the Clean Water Act must be authorized by the U.S. Environmental Protection Agency. ()

03. Hazard or Nuisance Prohibited. Wastewaters must not create a public health hazard or a nuisance condition. ()

04. Monitoring. Provision must be made for monitoring the quality of the ground water in proximity of the application site. The ground water monitoring program is subject to approval by the Department. All data and reports resulting from the ground water monitoring program must be submitted to the Department upon request. The minimum frequency of monitoring and data submittal will be determined by the Department and in general will be dependent upon: ()

- a. The nature and volume of wastewater material or recharge water; ()
- b. The frequency and duration of application; and ()
- c. The characteristics of the soil mantle on and lithology underlying the application site. ()

05. Basis for Evaluation. The evaluation for an approval to irrigate, either by sprinkling or flooding or surface spreading of wastewater material or by burying wastewater material or recharge water in the upper soil horizon as a method of treatment, must include, but will not necessarily be limited to, consideration of the following items: ()

a. The type and quantity of wastewater(s) proposed for land application. In general, the wastewater(s) organic constituents are to be biologically degradable and inorganic constituents must be utilized by vegetation or those organisms normally present in the soil. Other wastewater(s) or recharge waters will be considered provided it can be shown that land application will not adversely affect beneficial uses of waters of the state. ()

b. The nature of the soils and geologic formations underlying the application site. The entity proposing the activity must provide reasonable assurance that the soils and site geology will provide the required level of treatment and will not allow movement of pollutants into the underlying ground water. ()

c. The ability of the soil and vegetative cover on the application site to remove the pollutants contained in the applied waters through the combined processes of consumptive use and biological and chemical inactivation. ()

601. -- 649. (RESERVED).

650. SLUDGE USAGE.

01. Disposal Plans Required. Sludge can be utilized as soil augmentation only in conformance with: ()

- a. A Department approved sludge disposal plan; or ()

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- b.** Procedures and in a manner approved by the Department on a site-by-site basis. ()

02. Basis for Evaluation. Sludge disposal plans and sludge utilization proposals will be evaluated by the Department in regard to their protection of water quality and public health. ()

03. Elements of Plans and Proposals. Plans and proposals must at a minimum provide: ()

- a.** That only stabilized sludge will be used. ()
- b.** The criteria utilized for site selection, including: ()
- i.** Soil description; ()
- ii.** Geological features; ()
- iii.** Groundwater characteristics; ()
- iv.** Surrounding land use; ()
- v.** Topography; and ()
- vi.** Climate. ()
- c.** A description of the application process. ()
- d.** A statement detailing procedures to prevent application which could result in a reduction of soil productivity or in the percolation of excess nutrients. ()
- e.** Identification of potential adverse health effects in regard to the sludge and its proposed use. ()
- f.** Delineation of methods or procedures to be used to alleviate or eliminate adverse health effects. ()

651. -- 999. (RESERVED).

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.17 - WASTEWATER-LAND APPLICATION PERMIT RULES

DOCKET NO. 58-0117-0501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The temporary rule is effective December 7, 2005. This pending rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that the Board has adopted a pending and is also adopting a temporary rule. This action is authorized by Chapter 1, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the rulemaking is set forth in the initial proposed rule published in the Idaho Administrative Bulletin, August 3, 2005, Volume 05-8, pages 389 through 410. After consideration of public comments, the proposed rule has been revised at Sections 100, 200, 300, 401, 600, and 601. The remaining sections have been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

In accordance with Section 67-5226, Idaho Code, the full text of the temporary rule is being published in this Bulletin following this notice and includes changes made to the pending rule. The text of the pending has been modified in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the August 3, 2005, Idaho Administrative Bulletin, Vol. 05-8, pages 389 through 410.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is necessary because it will allow municipalities to qualify for funding for upgrades and improvements in wastewater treatment facilities.

IDAHO CODE SECTION 39-107D STATEMENT: This rule regulates an activity not regulated by the federal government. The following is a summary of additional information required by Sections 39-107D(3) and (4), Idaho Code, supporting modifications to these rules. The requirements set forth in this rule are based upon studies and analysis conducted by other states, the U.S. Environmental Protection Agency (EPA), and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analysis will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

Section 39-107D(3)(a), Idaho Code. Identification of each population or receptor addressed

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by an estimate of public health effects or environmental effects.

The limits placed on wastewater treatment in the stated modifications are proposed for both public health and environmental effects. The population affected by these limits includes the residents and users of facilities being irrigated by this wastewater effluent and the potential users of down-gradient beneficial uses of groundwater being recharged by this wastewater effluent.

Section 39-107D(3)(b) and (c), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk. The expected risk of exposure to this quality of wastewater effluent for each of these populations is as follows.

The expected risk for nitrate contamination on groundwater is low. For nitrate from the wastewater effluent entering the groundwater and affecting down-gradient beneficial users for drinking water (either directly or indirectly), the limits are based on the Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08, and Idaho's Ground Water Quality Rule, IDAPA 58.01.11. These standards are based on past studies by EPA determining the adverse health effects on infants from nitrate in drinking water.

The expected risk for pathogen contamination for affected populations is low. For pathogens in the wastewater effluent, the coliform limits are based on Idaho's existing Wastewater-Land Application Permit Rules. Associated additional requirements regarding treatment, buffer zones, reliability and redundancy are included to give additional assurance that the limits are attained consistently.

The expected risk of cross-connections from the wastewater effluent distribution system to the drinking water distribution system is low. There are multiple requirements put on the distribution system of the wastewater effluent. These requirements provide the affected populations with safeguards against contamination of their drinking water system from parallel or crossing main lines. These requirements also protect against contamination of their wastewater effluent system by raw sewage in parallel or crossing main lines.

The requirements set forth in this rule are based upon studies and analysis conducted by other states, EPA, and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analysis will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

Section 39-107D(3)(d), Idaho Code. Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty.

The limits placed on wastewater treatment in the stated modifications are proposed for both public health and environmental effects. The limits in these rule modifications are based on limits and standards used by other states and as promoted by national water reuse organizations. Although Idaho's wastewater land application permit program has been in affect for many years utilizing treated effluent for agricultural and municipal beneficial irrigation, the use of highly treated wastewater for higher beneficial uses is an evolving industry throughout the U.S. and the world. These higher uses, involving almost unrestricted use and unrestricted access by the general

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public, call for higher treatment and monitoring requirements to protect the affected populations. The uncertainty in assessing the health and environmental effects is believed to be minimal, but not zero.

Section 39-107D(3)(e), Idaho Code. Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.

The use of the 10 mg/l for nitrate is based on the existing Ground Water Quality Rule and the existing Idaho Rules for Public Drinking Water Systems. The use of the 2.2 total coliform limit is currently in the Wastewater-Land Application Permit Rules.

The requirements set forth in this rule are based upon studies and analysis conducted by other states, EPA, and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analysis will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this pending rule, contact Mark Mason at mark.mason@deq.idaho.gov, (208) 373-0266.

Dated this 2nd day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Chapter 1, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

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Written requests for a hearing must be received by the undersigned on or before August 17, 2005. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) has initiated this rulemaking to modify and clarify existing water quality limits and other requirements for the various classes of municipal reclaimed wastewater, to add and clarify various definitions, to change the name of the rules from “Wastewater Land Application Rules” to “Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater,” and to make various changes in the rules associated with this name change. This rulemaking is necessary because DEQ has determined that the existing water quality limits and other requirements for Class A and Class B reclaimed wastewater may be too strict. The name change reflects the desire of DEQ and stakeholders to go beyond just land application of wastewater in the field of reuse. In this context, land application is a subset of the broader scope of reclaimed wastewater reuse. In this rulemaking, DEQ also proposes to renumber the standard rule sections, and delete unnecessary rule sections, in conformance with IDAPA 44.01.01, “Rules of the Administrative Rules Coordinator,” and for consistency with other DEQ administrative rules. Section 950, Public and Confidential Information, has been deleted because it is outdated and obsolete due to the adoption of Section 997, Confidentiality of Records, in 2002.

Idaho Association of Commerce and Industry, Idaho Association of Cities, consulting engineers, existing and potential permittees, and the development community may be interested commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2005 for adoption of a pending and temporary rule. If adopted by the Board, the temporary rule would become effective on December 7, 2005. The pending rule is expected to be final upon the adjournment of the 2006 legislative session if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule regulates an activity not regulated by the federal government. The following is a summary of additional information required by Sections 39-107D(3) and (4), Idaho Code, supporting modifications to these rules. The requirements set forth in this proposed rule are based upon studies and analysis conducted by other states, the U.S. Environmental Protection Agency (EPA), and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analysis will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

Section 39-107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects. The limits placed on wastewater treatment in the stated modifications are proposed for both public health and

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environmental effects. The population affected by these limits includes the residents and users of facilities being irrigated by this wastewater effluent and the potential users of down-gradient beneficial uses of groundwater being recharged by this wastewater effluent.

Section 39-107D(3)(b) and (c), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk. The expected risk of exposure to this quality of wastewater effluent for each of these populations is as follows.

The expected risk for nitrate contamination on groundwater is low. For nitrate from the wastewater effluent entering the groundwater and affecting down-gradient beneficial users for drinking water (either directly or indirectly), the proposed limits are based on the Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08, and Idaho's Ground Water Quality Rule, IDAPA 58.01.11. These standards are based on past studies by EPA determining the adverse health effects on infants from nitrate in drinking water.

The expected risk for pathogen contamination for affected populations is low. For pathogens in the wastewater effluent, the proposed coliform limits are based on Idaho's existing Wastewater-Land Application Permit Rules. Associated additional requirements regarding treatment, buffer zones, reliability and redundancy are included to give additional assurance that the limits are attained consistently.

There are multiple requirements put on the distribution system of the wastewater effluent. These requirements provide the affected populations with safeguards against contamination of their drinking water system from parallel or crossing main lines. These requirements also protect against contamination of their wastewater effluent system by raw sewage in parallel or crossing main lines. The expected risk of this type of contamination is low.

The requirements set forth in this proposed rule are based upon studies and analysis conducted by other states, EPA, and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analysis will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

Section 39-107D(3)(d), Idaho Code. Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty. The limits placed on wastewater treatment in the stated modifications are proposed for both public health and environmental effects. The limits in these proposed rule modifications are based on limits and standards used by other states and as promoted by national water reuse organizations. Although Idaho's wastewater land application permit program has been in affect for many years utilizing treated effluent for agricultural and municipal beneficial irrigation, the use of highly treated wastewater for higher beneficial uses is an evolving industry throughout the U.S. and the world. These higher uses, involving almost unrestricted use and unrestricted access by the general public, call for higher treatment and monitoring requirements to protect the affected populations. The uncertainty in assessing the health and environmental effects is believed to be minimal, but not zero.

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Section 39-107D(3)(e), Idaho Code. Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data. The use of the proposed 10 mg/l for nitrate is based on the existing Ground Water Quality Rule and the existing Idaho Rules for Public Drinking Water Systems. The use of the proposed 2.2 total coliform limit is currently in the Wastewater-Land Application Permit Rules.

The requirements set forth in this proposed rule are based upon studies and analysis conducted by other states, EPA, and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analysis will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, April 6, 2005, Vol. 05-4, page 24.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this proposed rule, contact Mark Mason at (208) 373-0266 or mark.mason@deq.idaho.gov.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before August 31, 2005.

Dated this 1st day of July, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

58.01.17 - ~~WASTEWATER LAND APPLICATION PERMIT~~ RULES FOR THE RECLAMATION AND REUSE OF MUNICIPAL AND INDUSTRIAL WASTEWATER

001. TITLE AND SCOPE.

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DEPARTMENT OF ENVIRONMENTAL QUALITY Wastewater-Land Application Permit Rules

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01. Title. These rules are to be known and cited as Idaho Department of Environmental Quality Rules, IDAPA 58.01.17, “~~Wastewater-Land Application Permit~~ Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater”. ~~(4-1-88)~~(12-7-05)T

02. Scope. These rules establish the procedures and requirements for the issuance and maintenance of pollution source permits for ~~the treatment of municipal and industrial wastewaters by application to land, and~~ reclamation and reuse facilities, including permits for the treatment of municipal wastewaters for other reuse purposes as defined in Subsection 600.07, Direct Use of Municipal Reclaimed Wastewater. ~~(4-6-05)~~(12-7-05)T

(BREAK IN CONTINUITY OF SECTIONS)

003. INCORPORATION BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 003.02 shall constitute the full adoption by reference. (4-6-05)

02. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (4-6-05)

a. IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems,” Subsection 550.06, as codified in the 2004~~5~~ Idaho Administrative Code. ~~(4-6-05)~~(12-7-05)T

b. IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems,” Subsection 550.07, as codified in the 2004~~5~~ Idaho Administrative Code. ~~(4-6-05)~~(12-7-05)T

03. Availability of Documents Incorporated by Reference. Copies of the documents incorporated by reference are available at the following locations. (4-6-05)

a. Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, www.deq.idaho.gov. ~~(4-6-05)~~(12-7-05)T

b. Idaho Administrative Rules website, <http://www.state.id.us/adm/adminrules/agyindex.htm>. (4-6-05)

~~006~~004.ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality”. (3-15-02)

~~007~~005.CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 3, Title 9, Idaho Code, and IDAPA 58.01.21, “Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality”. (3-15-02)

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006. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8:00 a.m. to 5:00 p.m. Monday through Friday.

(12-7-05)T

0047. -- 099. (RESERVED).

100. APPLICABILITY.

01. ~~Existing Land Application~~ Applicability to Reclamation and Reuse Facilities.

~~Those land application facilities which are in operation on the effective date of these rules are deemed to be validly permitted for up to one (1) year. Permit conditions for the first permit issued to any existing facility under these rules shall substantially conform to the existing practices of such facility unless those existing practices cause or create conditions hazardous to the public health or to the environment, or violate other laws or regulations. All reclamation and reuse facilities are subject to the permit requirements of these rules.~~

(4-1-88)(12-7-05)T

02. Excluded Facilities. Land application of wastewater from livestock truck washing facilities, feedlots, dairies and mining are excluded from permit requirements under these rules but are subject to Idaho Department of Environmental Quality Rules, IDAPA 58.01.0216, "~~Water Quality Standards and Wastewater Treatment Requirements~~ Rules". The Director may exclude other facilities if covered adequately by other law.

(4-6-05)(12-7-05)T

03. Reuse Policy. *It is the policy of the Department to promote the practice of reuse of both municipal and industrial reclaimed wastewater through the continued creation and implementation of rules and guidance that give permittees various opportunities for new forms of reuse.*

(12-7-05)T

101. -- 199. (RESERVED).

200. DEFINITIONS.

For the purpose of these rules the following definitions apply unless another meaning is clearly indicated by context:

(4-1-88)

01. Applicant. The person applying for a ~~wastewater land application~~ reclamation and reuse permit.

(4-6-05)(12-7-05)T

02. Applicable Requirements. Any state, local or federal statutes, regulations or ordinances to which the facility is subject.

(4-1-88)

03. Board. The Idaho State Board of Environmental Quality.

(12-31-91)

04. Buffer Distances.

(12-7-05)T

a. The distances between the actual ~~land application~~ point of reuse of reclaimed

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wastewater and other uses such as wells, adjoining property, inhabited dwellings, and other features. ~~These distances are further defined in The Idaho Guidance for Land Application of Municipal and Industrial Wastewater.~~ Buffer distances are set to: (4-6-05)(12-7-05)T

i. Protect public health by limiting exposure to wastewater and conditions associated with reuse facilities; (12-7-05)T

ii. Protect waters of the state, including surface water, ground water and drinking water supplies; and (12-7-05)T

iii. Help ensure that wastewater is restricted to the reuse facilities. (12-7-05)T

b. In determining buffer distances, the Department will consider, as applicable, the degree of treatment or pretreatment of wastewater; the method of irrigation; physical or vegetative barriers; studies of the content of the wastewater, such as pathogen studies; best management practices; environmental conditions, such as wind speed and direction; and other information relevant to protecting public health and the environment. Further information regarding buffer distances is set forth in The Idaho Guidance for The Reclamation and Reuse of Municipal and Industrial Wastewater. (12-7-05)T

05. Class A Capacity. The capabilities required of a Class A effluent treatment and distribution system in order to achieve and maintain compliance with these rules. (4-6-05)

06. Class A Effluent Distribution System. The distribution system for Class A effluent as described in these rules. The distribution system does not include any of the collection or treatment portions of the wastewater facility and is not subject to operator licensing requirements of IDAPA 58.01.0216, ~~“Water Quality Standards and Wastewater Treatment Requirements, Rules” Section 404.~~ (4-6-05)(12-7-05)T

07. Department. The Idaho Department of Environmental Quality. (4-1-88)

08. Director. The Director of the Department of Environmental Quality or the Director’s designee. (4-1-88)

09. Idaho Guidance for ~~Land Application~~ the Reclamation and Reuse of Municipal and Industrial Wastewater. This document, and subsequent revisions of this document, provides assistance in applying and interpreting these rules relating to for permitting and operating ~~land-application~~ reclamation and reuse facilities. Copies of the document are available at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255 and www.deq.idaho.gov. (4-6-05)(12-7-05)T

10. ~~Land Application Facility or Facility.~~ Any structure or system designed or used to treat wastewater through application to the land surface. Industrial Wastewater. Wastewater that is the by-product of any industrial processes including, but not limited to, food processing or food washing wastewater. (4-1-88)(12-7-05)T

11. Land Application. The application of municipal or industrial wastewater to land

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for the purpose of land treatment. (12-7-05)T

12. Land Treatment. The use of land, soil, and crops for treatment of municipal or industrial wastewater. (12-7-05)T

143. Municipal Wastewater. Waste water that contains sewage. (4-1-88)

124. New Activity. Any significant change in operation or construction of the wastewater treatment system which may impact the waters of the state. (4-1-88)

135. Non-Contact Cooling Water. Water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat) or finished product. (4-1-88)

146. NTU. Nephelometric Turbidity Unit - a unit of measurement of the level of turbidity. (4-6-05)

157. Permit. Written authorization by the Director to ~~land-apply~~ modify, operate, construct or discharge ~~wastewater, other than to surface waters of the state, as identified in the plan of operation~~ to a reclamation and reuse facility. (4-1-88)(12-7-05)T

168. Permittee. The person to whom the ~~wastewater land-application~~ reclamation and reuse permit is issued. (4-6-05)(12-7-05)T

179. Person. An individual, corporation, partnership, association, state, municipality, commission, political subdivision of the state, state agency, federal agency, special district, or interstate body. (4-1-88)

1820. Point of Compliance. That point in the reclamation and reuse facility where the ~~treated effluent~~ reclaimed wastewater must meet the ~~different limit~~ requirements of the permit. There may be more than one (1) point of compliance within the facility depending on the constituents to be monitored. (4-6-05)(12-7-05)T

1921. Primary Effluent. Raw wastewater that has been mechanically treated by screening, degritting, sedimentation and/or skimming processes to remove substantially all floatable and settleable solids. (4-1-88)

202. Processed Food Crop. Any crop intended for human consumption that has been changed from its original form and further disinfection occurs. (4-1-88)

213. Rapid Infiltration System. A wastewater treatment method by which wastewater is applied to land in an amount of twenty (20) to six hundred (600) feet per year for percolation through the soil. Vegetation is not generally utilized by this method. (4-1-88)

224. Raw Food Crop. Any crop intended for human consumption which is to be used in its original form. (4-1-88)

235. Reclaimed Wastewater. For the purpose of these rules, the term reclaimed

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wastewater ~~or reuse~~ shall mean ~~municipal~~ wastewater that is used in accordance with these rules.
(4-6-05)(12-7-05)T

246. Restricted Public Access. Preventing public entry within ~~one thousand (1,000) feet of the border~~ the area or point of reuse of a facility and the buffer distance around the area by site location or physical structures such as fencing. A lesser buffer ~~strip less than one thousand (1,000) feet~~ distance may be accepted if aerosol drift is reduced.
(4-1-88)(12-7-05)T

~~**25. Reclaimed Wastewater Facility.** Any municipal structure or system designed or used to treat municipal wastewater for the purpose of reusing the effluent including, but not limited to, municipal wastewater treatment facilities, pumping and storage facilities, pipeline and distribution facilities, and the property to which the reclaimed wastewater is applied.~~ (4-6-05)

27. Reclamation. The treatment of municipal or industrial wastewater that allows it to be reused for beneficial uses. Reclamation also includes land treatment for wastewater that utilizes soil or crops for partial treatment.
(12-7-05)T

28. Reuse. The use of reclaimed wastewater for beneficial uses including, but not limited to, land treatment, irrigation, aquifer recharge, use in surface water features, toilet flushing in commercial buildings, dust control, and other uses.
(12-7-05)T

29. Reclamation and Reuse Facility or Facility. Any structure or system designed or used for reclamation or reuse of municipal or industrial wastewater including, but not limited to, industrial and municipal wastewater treatment facilities, pumping and storage facilities, pipeline and distribution facilities, and the property to which the reclaimed wastewater is applied. This does not include industrial in-plant processes and reuse of process waters within the plant.
(12-7-05)T

~~**2630. Sewage.**~~ The water-carried human wastes from residences, buildings, industrial establishments and other places.
(4-1-88)

~~**2731. Sludge.**~~ The semi-liquid mass produced by treatment of water or wastewater.
(4-1-88)

~~**2832. Time Distribution of Flows.**~~ A measurement of the volume of wastewater distributed over a specified area during a specified time period. Typical unit of measure is inches per acre per week.
(4-1-88)

~~**2933. Wastewater.**~~ Unless otherwise specified, industrial waste, municipal waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present but not including sludge, or non-contact cooling water.
(4-1-88)

~~**30. Wastewater Treatment System.** All phases of wastewater treatment including any pretreatment equipment and the land treatment facility on which the wastewater is applied.~~
(4-6-05)

~~**314. Waters and Waters of the State.**~~ All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or

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partially within, which flow through or border upon the state. (4-1-88)

201. -- 299. (RESERVED).

300. PERMIT REQUIREMENTS AND APPLICATION.

01. Permit Required. No person shall construct, modify, operate, or continue to operate a ~~land application~~ reclamation and reuse facility ~~or other reclaimed wastewater facility~~ without a valid permit issued by the Director as provided in these rules. ~~(4-6-05)(12-7-05)T~~

02. Dischargers. No person shall discharge to a ~~land application or other reclaimed wastewater~~ reclamation and reuse facility without a valid permit issued by the Director as provided in these rules. ~~(4-6-05)(12-7-05)T~~

03. Pre-Application Conference. Prospective applicants are encouraged to meet with the Department to discuss application procedure and anticipated application requirements. (4-1-88)

04. Application Required. Every person requiring a permit under these rules shall submit a permit application to the Department: (4-1-88)

a. At least one hundred eighty (180) days prior to the day on which a new activity is to begin; or ~~(4-1-88)(12-7-05)T~~

b. At least one hundred eighty (180) days prior to the expiration of any permit issued pursuant to these rules; ~~(4-1-88)(12-7-05)T~~

~~**c.** Within one hundred eighty (180) days after the effective date of these rules for any existing land application facility deemed to be permitted under these rules. (4-1-88)~~

05. Application Contents. Application shall be made on a form prescribed by the Director and available from the Department and shall include, but not be limited to, the following information: (4-1-88)

a. Name, location, and mailing address of the facility; (4-1-88)

b. Name, mailing address, and phone number of the facility owner and signature of the owner or authorized agent; (4-1-88)

c. The nature of the entity owning the facility (federal, state, private, or public entity); (4-1-88)

d. A list of local, state, and federal permits, licenses and approvals related to the activity which have been applied for and which have been received and the dates of application or approval; (4-1-88)

e. A topographic map of the facility site identifying and showing the location and extent of: (4-1-88)

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- i. Wastewater inlets, outlets, and storage structures and facilities; (4-1-88)
- ii. Wells, springs, wetlands, and surface waters; (4-1-88)
- iii. Twenty-five (25), fifty (50), and one hundred (100) year flood plains, as available through the Federal Insurance Administration of the Federal Emergency Management Agency; (4-1-88)
- iv. Service roads; (4-1-88)
- v. Natural or man-made features necessary for treatment; (4-1-88)
- vi. Buildings and structures; and (4-1-88)
- vii. Process chemicals and residue storage facilities. (4-1-88)
- f.** A topographic map which may be separate from or combined with the facility site map, extending one quarter (1/4) mile beyond the outer limits of the facility site. The map shall identify and show the location and extent of the following: (4-1-88)
 - i. Wells, springs, wetlands, and surface waters; (4-6-05)
 - ii. Public and private drinking water supply sources and source water assessment areas (public water system protection area information); (4-6-05)
 - iii. Public roads; and (4-1-88)
 - iv. Dwellings and private and public gathering places. (4-1-88)
- g.** If the facility site or any portion thereof is leased or rented, a copy of that lease or rental agreement; (4-1-88)
- h.** The volume of wastewaters to be treated and the time distribution of flows; (4-1-88)
- i.** The physical, chemical, and biological characteristics of the wastewater; (4-1-88)
- j.** The climatic, hydrogeologic, and soil characteristics of the facility site. (4-1-88)
- k.** Other information may also be required. The Idaho Guidance for Land Application Reclamation and Reuse of Municipal and Industrial Wastewater is intended to provide assistance to permit applicants in obtaining a wastewater land application reclamation and reuse permit and may be considered in determining the need for other information. (~~4-6-05~~)(12-7-05)T

06. Existing ~~Land Application~~ Reclamation and Reuse Facility Plan of Operation. Any existing ~~land application~~ reclamation and reuse facility ~~or other reclaimed wastewater~~

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~~facility~~ shall be required to have a plan of operation which describes in detail the operation, maintenance, and management of the wastewater treatment system. ~~(4-6-05)(12-7-05)T~~

07. New ~~Land Application~~ Reclamation and Reuse Facility Plan of Operation. Any new proposed ~~land application~~ reclamation and reuse facility ~~or other reclaimed wastewater facility~~ shall be required to have a detailed plan of operation at the fifty percent (50%) completion point of construction. In addition, after one (1) year of operation the plan must be updated to reflect actual operating procedures. A general outline of the plan of operation must be provided with the permit application which will satisfy the intent of these rules. ~~(4-6-05)(12-7-05)T~~

(BREAK IN CONTINUITY OF SECTIONS)

401. PLAN AND SPECIFICATION REVIEW.

The current edition of the "Recommended Standards for Wastewater Facilities - Great Lakes-Upper Mississippi River Board of State Sanitary Engineers," "Idaho Standards for Public Works Construction," and other Department guidance shall be used as guides for the development of plans and specifications for all waste treatment facilities ~~in accordance with IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," Section 402.~~ The Department may review the project plans and specifications and the permit application materials concurrently. Plans and specifications may require modification prior to a final permit being issued. ~~The Department does not require review of industrial in-plant processes, only those processes that treat or distribute wastewater.~~ ~~(4-6-05)(12-7-05)T~~

01. Requirement for Single Point of Contact Responsible for Entire Wastewater Project. The Applicant (Permittee) shall designate a single point of contact who is responsible for all submissions to the Department related to the ~~wastewater~~ reclamation and reuse facilities ~~construction project~~. This single point of contact shall be identified in the permit application. ~~(4-6-05)(12-7-05)T~~

02. Requirement for Preparation of Plans and Specifications. All plans and specifications for the construction of new sewage systems, sewage treatment plants or systems, other waste treatment or disposal facilities or modification or expansion to same shall be submitted to and approved by the Director before construction can begin in accordance with Chapter 1, Title 39, Idaho Code, and IDAPA 58.01.02~~16~~, ~~"Water Quality Standards and Wastewater Treatment Requirements, Rules" Section 402.~~ ~~(4-6-05)(12-7-05)T~~

03. Requirement for Professional Engineer's Seal. All plans and specifications for the construction of new sewage systems, sewage treatment plants or systems, other waste treatment or disposal facilities or modification or expansion to same, wherein the public welfare or the safeguarding of life, health, or property is involved, shall bear the seal, signature and date of a registered professional engineer licensed in the state of Idaho in accordance Chapter 12, Title 54, Idaho Code. (4-6-05)

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(BREAK IN CONTINUITY OF SECTIONS)

600. SPECIFIC PERMIT CONDITIONS.

01. Basis for Specific Permit Conditions. Conditions necessary for the protection of the environment and the public health may differ from facility to facility because of varying environmental conditions and wastewater compositions. The Director may establish, on a case-by-case basis, specific permit conditions. Specific conditions shall be established in consideration of characteristics specific to a facility and inherent hazards of those characteristics. Such characteristics include, but are not limited to: (4-1-88)

- a. Chemical, biological, physical, and volumetric characteristics of the wastewater; (4-1-88)
- b. Geological and climatic nature of the facility site; (4-1-88)
- c. Size of the site and its proximity to population centers and to ground and surface water; (4-1-88)
- d. Legal considerations relative to land use and water rights; (4-1-88)
- e. Techniques used in wastewater distribution and the disposition of that vegetation exposed to wastewaters; (4-1-88)
- f. Abilities of the soils and vegetative covers to treat the wastewater without undue hazard to the environment or to the public health; and (4-1-88)
- g. The need for monitoring and record keeping to determine if the facility is being operated in conformance with its design and if its design is adequate to protect the environment and the public health. (4-1-88)

02. Duration of Permit. The permit shall be effective for a fixed term of not more than five (5) years. (4-1-88)

- 03. Limitations to Operation.** Conditions of the permit may specify or limit: (4-1-88)
- a. Wastewater composition; (4-1-88)
 - b. Method, manner, and frequency of wastewater treatment; (4-1-88)
 - c. Wastewater pretreatment requirements; (4-1-88)
 - d. Physical, chemical, and biological characteristics of a land ~~application~~ treatment facility; and ~~(4-1-88)~~(12-7-05)T
 - e. Any other condition the Director finds necessary to protect public health or environment. (4-1-88)

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04. Compliance Schedules. The Director may establish a compliance schedule for existing facilities as part of the permit conditions including: (4-1-88)

a. Specific steps or actions to be taken by the permittee to achieve compliance with applicable requirements or final permit conditions; (4-1-88)

b. Dates by which those steps or actions are to be taken; and (4-1-88)

c. In any case where the period of time for compliance exceeds one (1) year the schedule may also establish interim requirements and the dates for their achievements. (4-1-88)

05. Monitoring Requirements. Any facility may be subject to monitoring requirements including, but not limited to: (4-1-88)

a. The installation, use, and maintenance of monitoring equipment; (4-1-88)

b. Monitoring or sampling methodology, frequency, and locations; (4-1-88)

c. Monitored substances or parameters; (4-1-88)

d. Testing and analytical procedures; and (4-1-88)

e. Reporting requirements including both frequency and form. (4-1-88)

06. Rapid Infiltration Systems. The following minimum treatment requirements are established for land application of wastewater using rapid infiltration methods and systems. ~~(4-1-88)~~(12-7-05)T

a. Suspended solids content of wastewater which includes organic and inorganic particulate matter shall not exceed a thirty (30) day average concentration of one hundred (100) mg/l. (4-1-88)

b. Nitrogen (total as N) content of wastewater shall not exceed a thirty (30) day average concentration of twenty (20) mg/l. (4-1-88)

07. Direct Use of Municipal Reclaimed Wastewater. Treatment requirements applicable to direct use of municipal reclaimed wastewater include, but are not limited to, the following. The applicable treatment requirements, buffer zones, access restrictions, disinfection requirements, uses, and other requirements are further described in the Classification Table in Subsection 600.08. (4-6-05)

a. Class A effluent is municipal reclaimed wastewater that may be used under particular circumstances for irrigation, including residential irrigation at individual homes ~~(controlled only by the system operator)~~, ground water recharge, using surface spreading, seepage ponds, or other unlined surface water features, and other appropriate uses acceptable to the Department. Class A effluent shall be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. ~~Enhanced~~ ~~f~~iltration approval requirements,

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nutrient removal requirements, turbidity limits requirements, monitoring requirements, reliability and redundancy requirements, and distribution system requirements also apply. Class A treatment systems are required to be pilot tested ~~at full scale prior to sewer hookups, lifting of sanitary restrictions, and start-up~~ or otherwise approved by the Department per Subsection 601.04 of these rules. Class A effluent shall be considered adequately disinfected if, at the point of compliance, the median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, and does not exceed twenty-three (23) per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. For ground water recharge, ~~using~~ surface spreading, seepage ponds, and other unlined surface water features, IDAPA 58.01.11, "Ground Water Quality Rule," requirements apply. For Class A effluent, analysis shall be based on daily sampling during periods of use. The point of compliance for Class A effluent for total coliform shall be ~~in the distribution~~ at any point in the system following final treatment, ~~final storage~~ and disinfection contact time. ~~It is recommended but not required that the effluent also be disinfected following storage.~~ Class A effluent for residential irrigation ~~should~~ shall be applied only during periods of non-use. (4-6-05)(12-7-05)T

b. Class B effluent is municipal reclaimed wastewater that may contact any edible portion of raw food crops or is used to irrigate golf courses, parks, playgrounds, schoolyards and other areas where children are more likely to have access or exposure. Class B effluent shall be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. New Class B treatment systems are required to be pilot tested ~~at full scale and approved by the Department prior to sewer hookups, lifting of sanitary restrictions, and start-up.~~ Class B effluent shall meet the following turbidity limits. The daily arithmetic mean of all daily measurements of turbidity shall not exceed two (2) NTU, and turbidity shall not exceed five (5) NTU at any time. Turbidity shall be measured continuously. The turbidity standard shall be met prior to disinfection. For those systems that have in-line turbidimeters that are operating full-time, no additional monitoring for total suspended solids (TSS) is required. Class B effluent shall be considered adequately disinfected if, at the point of compliance, the median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, and does not exceed twenty-three (23) per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. For Class B effluent, analysis shall be based on daily sampling during periods of application. The point of compliance for Class B effluent for total coliform shall be ~~in the distribution~~ at any point in the system following final treatment, ~~final storage~~ and disinfection contact time. ~~It is recommended but not required that the effluent also be disinfected following storage.~~ Residual chlorine at the point of compliance shall be not less than one (1) mg/L free chlorine after a contact time of thirty (30) minutes at peak flow. ~~If an alternative disinfection process is used, it must be demonstrated to the satisfaction of the Department that the alternative process is comparable to that achieved by chlorination with one (1) mg/L free chlorine after thirty (30) minutes contact time.~~ Class B effluent shall be applied only during periods of non-use by the public. (4-6-05)(12-7-05)T

c. Class C effluent is municipal reclaimed wastewater that will only contact the ~~inedible~~ inedible portion of raw food crops, or is used to irrigate orchards and vineyards during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground or will only contact the ~~inedible~~ inedible portion of raw food crops, or is used to irrigate cemeteries, ~~roadside~~ vegetation on sides and medians of highways, and other areas where

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individuals have access or exposure. Class C effluent shall be oxidized and adequately disinfected. Class C effluent shall be considered adequately disinfected if, at the point of compliance, the median number of total coliform organisms does not exceed twenty-three (23) per one hundred (100) milliliters, and does not exceed two hundred thirty (230) per one hundred (100) milliliters in any confirmed sample as determined from the bacteriological results of the last five (5) days for which analyses have been completed. For Class C effluent, analysis shall be based on weekly sampling during periods of application. The point of compliance for Class C effluent for total coliform shall be at ~~the entrance to the distribution~~ any point in the system following final treatment and disinfection contact time, ~~but before storage~~. Class C effluent shall be applied only during periods of non-use by the public. ~~(4-6-05)(12-7-05)T~~

d. Class D effluent is municipal reclaimed wastewater that is used to irrigate fodder, seed, or processed food crops and is oxidized and adequately disinfected. Class D effluent shall be considered adequately disinfected if, at some location in the treatment process, the median number of total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters, not to exceed two thousand three hundred (2300) per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last three (3) days for which analyses have been completed. For Class D effluent, analysis shall be based on monthly sampling during periods of application. The point of compliance for Class D effluent for total coliform shall be at any point in the system following final treatment and disinfection contact time. Animals shall not be grazed on land where Class D municipal wastewater is applied, and animals shall not be fed harvested vegetation irrigated in this manner within two (2) weeks of application. ~~(4-6-05)(12-7-05)T~~

e. Class E effluent is municipal reclaimed wastewater that is used to irrigate ~~fodder, seed, or processed food crops or~~ forested sites where public access is restricted and the municipal wastewater shall be of at least primary effluent quality. Animals shall not be grazed on land where Class E municipal wastewater is applied, and animals shall not be fed harvested vegetation irrigated in this manner within four (4) weeks of application. ~~(4-6-05)(12-7-05)T~~

08. Direct Use of Municipal Reclaimed Wastewater - Classification Table. The following table further describes the requirements for direct use of municipal reclaimed wastewater outlined in Subsection 600.07.

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| Classification Table | | | | | |
|----------------------|--|---|---|---|---|
| Classification | Class A | Class B | Class C | Class D | Class E |
| Treatment | This is a partial list - see Section 601 for more detail: Oxidized, <u>clarified</u> , <u>and</u> coagulated, clarified , with enhanced filtration approval requirements or treated by an equivalent process, plus nutrient removal requirements, turbidity limits requirements, adequately disinfected and pilot tested. | Oxidized, coagulated, clarified, <u>and</u> filtered, or treated by an equivalent process, <u>turbidity limits requirements</u> , and adequately disinfected and pilot tested. | Oxidized and adequately disinfected | Oxidized and adequately disinfected | At least primary effluent quality |
| Disinfection | Total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters | Total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters | Total coliform organisms does not exceed twenty three (23) per one hundred (100) milliliters | Total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters | Total coliform organisms up to "too numerous to count" |
| Uses | Residential irrigation at individual homes, ground water recharge, <u>using</u> surface spreading, seepage ponds, other unlined <u>surface</u> water features, or Class B, C, D, or E uses. Other requirements apply for groundwater uses. | May contact any edible portion of raw food crops, or is used to irrigate golf courses, parks, playgrounds, schoolyards or Class C, D, or E uses. | Used to irrigate orchards and vineyards during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground, or will only contact the unedible portion of raw food crops, or is used to irrigate cemeteries, roadside vegetation or Class D or E uses. | Used to irrigate fodder, seed, or processed food crops or Class E uses. | Used to irrigate fodder , seed , processed food crops , or forested sites. |
| Access Restriction | Irrigated during periods of non-use. | Irrigated during periods of non-use by the public. | Irrigated during periods of non-use by the public. | Public access restricted. | Public access restricted. |

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| Classification Table | | | | | |
|-----------------------------------|---|--|--|--|--|
| Classification | Class A | Class B | Class C | Class D | Class E |
| Signing and Posting | See Subsection 601.02 | Site specific - See Idaho Guidance for <u>Land Application The Reclamation and Reuse of Municipal and Industrial Wastewater</u> | Site specific - See Idaho Guidance for <u>Land Application The Reclamation and Reuse of Municipal and Industrial Wastewater</u> | Site specific - See Idaho Guidance for <u>Land Application The Reclamation and Reuse of Municipal and Industrial Wastewater</u> | Site specific - See Idaho Guidance for <u>Land Application The Reclamation and Reuse of Municipal and Industrial Wastewater</u> |
| Buffer Zones Distances | No effluent is allowed to be applied into or over natural waterways, or other conveyances that drain into natural waterways without to surface waters in those circumstances when an NPDES Permit is required. | Site specific - See Idaho Guidance for <u>Land Application The Reclamation and Reuse of Municipal and Industrial Wastewater. No effluent is allowed to be applied to surface waters in those circumstances when an NPDES Permit is required.</u> | Site specific - See Idaho Guidance for <u>Land Application The Reclamation and Reuse of Municipal and Industrial Wastewater. No effluent is allowed to be applied to surface waters in those circumstances when an NPDES Permit is required.</u> | Site specific - See Idaho Guidance for <u>Land Application The Reclamation and Reuse of Municipal and Industrial Wastewater. No effluent is allowed to be applied to surface waters in those circumstances when an NPDES Permit is required.</u> | 1000 ft. to inhabited dwellings and areas accessible to the public. <u>No effluent is allowed to be applied to surface waters in those circumstances when an NPDES Permit is required.</u> |
| Grazing | Grazing allowed only with approved grazing management plan. | Grazing allowed only with approved grazing management plan. | Grazing allowed only with approved grazing management plan. | Grazing not allowed. | Grazing not allowed. |

(4-6-05)(12-7-05)T

601. CLASS A EFFLUENT MUNICIPAL RECLAIMED WASTEWATER - ADDITIONAL REQUIREMENTS.

01. Engineering Report. Engineering reports and application materials for new Class A effluent municipal reclaimed wastewater systems or major upgrades to Class A effluent municipal reclaimed wastewater systems shall be submitted to the Department with the application and must be approved by the Department prior to permit issuance. The engineering

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report shall include, but not be limited to, the following items as applicable: purpose; approach; development of alternatives; technical, financial, managerial, and legal issues; emergency response and security; operation and maintenance; pilot testing; client use issues; potential markets for reclaimed wastewater; potential sources of wastewater; public involvement and perception; targeted markets for reclaimed wastewater; allocation of reclaimed wastewater; preliminary investigations; staff development; treatment system upgrades to meet Class A requirements; distribution system development and schedule; new development infrastructure; reservoir or booster capacity; water balance calculations; costs; applicable regulations; and potential funding sources. This engineering report shall be stamped, dated and signed in accordance with Idaho Board of Registration of Professional Engineers and Professional Land Surveyors, IDAPA 10.01.02, "Rules of Professional Responsibility". ~~(4-6-05)~~(12-7-05)T

02. Distribution System Requirements. Class A distribution systems and the continued distribution systems of all of its customers shall have specific requirements including, but not limited to: (4-6-05)

a. Any person or agency that is planning to construct all or part of the distribution system must obtain a plan and specification approval from the Department prior to beginning construction. Where Class A effluent is to be provided by pressure pipeline, the following applicable standards shall be used as guidance: the current edition of "Recommended Standards for Wastewater Facilities - Great Lakes-Upper Mississippi River Board of State Sanitary Engineers," the "AWWA Manual M24" Chapter 4 for dual water systems, and the current edition of "Idaho Standards for Public Works Construction". The above guidance documents shall be used for all new systems constructed after April 1, 2005. Requirements for irrigation systems proposed for conversion from use of non-Class A effluent water to use with Class A effluent will be considered on a case-by-case basis considering protection of public health and the environment. (4-6-05)

b. Distribution Lines. (4-6-05)

i. Minimum Separation. (4-6-05)

(1) Horizontal Separation. Class A effluent distribution mains parallel to potable (culinary) water mains shall be installed in accordance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06. Class A effluent distribution mains parallel to sanitary sewer mains shall be installed at least five (5) feet horizontally from the sanitary sewer main if the sanitary sewer main is located above the Class A effluent main, and three (3) feet horizontally from the sanitary sewer main if the sanitary sewer main is located below the Class A effluent main. (4-6-05)

(2) Vertical Separation. At crossings of Class A effluent distribution mains with potable water mains and sanitary sewer mains, the order of the mains from lowest in elevation to highest should be: sanitary sewer main, Class A effluent main, and potable water main. A minimum of eighteen (18) inches vertical separation between each of these utilities shall be provided as measured from outside of pipe to outside of pipe. The crossings shall be arranged so that the Class A effluent main joints will be equidistant and as far as possible from the water main joints and the sewer main joints. If the Class A effluent water main must cross above the potable water main, the vertical separation shall be a minimum eighteen (18) inches, the Class A effluent

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main shall be supported to prevent settling, and the Class A effluent main shall be encased in a continuous pipe sleeve to a distance on each side of the crossing equal to ten (10) feet. If the Class A effluent main must cross below the sanitary sewer main, the vertical separation shall be a minimum eighteen (18) inches and the Class A effluent main shall be encased in a continuous pipe sleeve to a distance on each side of the crossing equal to ten (10) feet. (4-6-05)

(3) Special Provisions. Where the horizontal and/or vertical separation as required above cannot be maintained, special construction requirements shall be provided in accordance with requirements in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06, for protection of potable water mains. (4-6-05)

ii. Class A Effluent Pipe Identification. (4-6-05)

(1) General. All new buried pipe, including service lines, valves, and other appurtenances, shall be colored purple, Pantone 512 or equivalent. If fading or discoloration of the purple pipe is experienced during construction, identification tape or locating wire along the pipe is required. Label piping every ten (10) feet "Caution: Reclaimed Water - Do Not Drink". (4-6-05)

(2) Identification Tape. If identification tape is installed along with the purple pipe, it shall be prepared with white or black printing on a purple field, color Pantone 512 or equivalent, having the words, "Caution: Reclaimed Water - Do Not Drink". The overall width of the tape shall be at least three (3) inches. Identification tape shall be installed eighteen (18) inches above the transmission pipe longitudinally, shall be centered over the pipe, and shall run continuously along the length of the pipe. (4-6-05)

iii. Conversion of Existing Drinking Water or Irrigation Water Lines. Existing water lines that are being converted to use with Class A effluent shall first be accurately located and comply with leak test standards in accordance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06, and in coordination with the Department. The pipeline must be physically disconnected from any potable water lines and brought into compliance with current state cross connection rules and requirements (IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.07), and must meet minimum separation requirements in Subsection 601.02.b. of these rules. If the existing lines meet approval of the water supplier and the Department based upon the requirements set forth in Subsection 601.02.b.iii. of these rules, the lines shall be approved for Class A effluent distribution. If regulatory compliance of the system (accurate location and verification of no cross connections) cannot be verified with record drawings, televising, or otherwise, the lines shall be uncovered, inspected, and identified prior to use. All accessible portions of the system must be retrofitted to meet the requirements of these rules. After conversion of the water or irrigation line to a wastewater effluent line, the lines shall be marked as stated in Subsection 601.02.b.ii.(2) of these rules. (4-6-05)

iv. Valve Boxes and Other Surface Identification. All valves ~~covers~~ shall ~~be of~~ have locking valve covers that are non-interchangeable ~~shape~~ with ~~locking~~ potable water valve covers, and shall have an inscription cast on the top surface stating "Reclaimed Water". Valve boxes shall meet the requirements of IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06. All above ground pipes and pumps shall be consistently color coded (purple,

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Pantone 512) and marked to differentiate Class A effluent facilities from potable water facilities.
(~~4-6-05~~)(12-7-05)T

v. Blow-off Assemblies. If either an in-line type or end-of-line type blow-off or drain assembly is installed in the system, a plan for proposed discharge or runoff locations shall be submitted to the Department for review and approval. (4-6-05)

c. Storage. If storage or impoundment of Class A effluent is provided, the following requirements apply: (4-6-05)

i. Fencing. No fencing is required by these rules, but may be required by local laws or ordinances. (4-6-05)

ii. Identification. All storage facilities shall be identified by signs prepared according to the requirements of Subsection 601.02.e.v. of these rules. Signs shall be posted on the surrounding fence at minimum five hundred (500) foot intervals and at the entrance of each facility. If there is no fence, signs shall be located at a minimum on each side of the facility or at minimum two hundred fifty (250) foot intervals or at all accessible points. (4-6-05)

iii. For systems supplying irrigation water for residential lawn irrigation, minimum storage requirements shall include sufficient volume for daily use patterns, precipitation events, etc., and an alternate disposal point during non-irrigation season. (4-6-05)

d. Pumping Facilities. (4-6-05)

i. Marking. All exposed and above ground piping, risers, fittings, pumps, valves, etc., shall be painted purple, Pantone 512. In addition, all piping shall be identified using an accepted means of labeling reading "Warning: Reclaimed Water - Do Not Drink". In a fenced pump station area, signs shall be posted on the fence on all sides. (4-6-05)

ii. Seal Water. Any potable water used as seal water for reclaimed water pump seals shall be protected from backflow with a Department approved backflow prevention device or air gap. (4-6-05)

e. Other Requirements. (4-6-05)

i. Backflow Protection. In no case shall a direct connection be made between the potable and Class A effluent system. If it is necessary to put potable water into the Class A effluent distribution system, a Department approved reduced pressure principal device or air gap must be provided to protect the potable water system. (4-6-05)

ii. Drinking fountains, picnic tables, food establishments, and other public eating facilities shall be placed out of any spray irrigation area in which Class A effluent is used, or shall be otherwise protected from contact with the Class A effluent. Exterior drinking fountains, picnic tables, food establishments, and other public eating facilities shall be shown and called out on the construction plans. If no exterior drinking fountains, picnic tables, food establishments, or other public eating facilities are present in the design area, then it shall be specifically stated on the plans that none are to exist. (4-6-05)

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iii. Equipment and Facilities. Any equipment or facilities such as tanks, temporary piping or valves, and portable pumps that have been or may be used with Class A effluent shall not be used with potable water or sewage. Any equipment or facilities such as tanks, temporary piping or valves, and portable pumps that have been or may be used with sewage shall not be used with Class A effluent or potable water. (4-6-05)

iv. Warning Labels. Warning labels shall be installed on designated facilities such as, but not limited to, controller panels and washdown or blow-off hydrants on water trucks, hose bibs, and temporary construction services. The labels shall read, "Warning: Reclaimed Wastewater - Do Not Drink". (4-6-05)

v. Warning signs. Where reclaimed water is stored or impounded, or used for irrigation in public areas, warning signs shall be installed and contain, at a minimum, one (1) inch purple letters (Pantone 512 or equivalent) on a white or other high contrast background notifying the public that the water is unsafe to drink. Signs may also have a purple background with white or other high contrast lettering. Warning signs and labels shall read, "Warning: Reclaimed Wastewater - Do Not Drink". The signs shall include the international symbol for Do Not Drink. (4-6-05)

03. Other Permits Addressed as Necessary. The following other permits may be necessary for a particular facility but are not regulated under these rules: (4-6-05)

a. NPDES permits from the Environmental Protection Agency for surface water discharge. (4-6-05)

b. Injection well permits from Idaho Department of Water Resources. (4-6-05)

04. Filtration Technology Approval Requirements. All Class A effluent projects in Idaho must have written approval from the Department for their proposed filtration technology prior to submitting plans and specifications for approval. The following approaches are methods by which this written approval may be obtained from the Department. (4-6-05)

a. Department approval based on previous similar projects in Idaho. (4-6-05)

b. National approval by National Reuse Association, Water Environment Federation Research Foundation, NSF International, or other organization approved by the Department. (4-6-05)

c. The State of California Department of Health Services Treatment Technology Report for Recycled Water. (4-6-05)

d. Other methods approved by the Department, including pilot testing.
(4-6-05)(12-7-05)T

05. Nutrient Removal Requirements. Total nitrogen at the point of compliance shall not exceed ten (10) mg/L for ground water recharge systems, and thirty (30) mg/L for residential irrigation and other non-recharge systems, based on a monthly arithmetic mean as determined

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from ~~daily~~ weekly composite sampling. ~~This value~~ These limits may be much lower depending on the results of any applicable nutrient-pathogen studies that may be required. ~~(4-6-05)(12-7-05)T~~

06. Turbidity Limits and Monitoring Requirements. (4-6-05)

a. One (1) in-line, continuously monitoring, recording turbidimeter is required for each treatment train. (4-6-05)

b. Class A effluent shall meet the following turbidity limits. The daily arithmetic mean of all daily measurements of turbidity shall not exceed two (2) NTU, and turbidity shall not exceed five (5) NTU at any time. Turbidity shall be measured continuously. The turbidity standard shall be met prior to disinfection. (4-6-05)

07. Reliability and Redundancy Requirements. (4-6-05)

a. Class A treatment systems shall have redundant treatment capabilities able to treat peak flow and provide for ~~Aan~~ alternative disposal option or diversion to adequate lined storage capable of storing seven (7) days of effluent or equivalent back-up system must be automatically activated if turbidity exceeds or chlorine residual drops below the instantaneous required value for more than ~~two~~ five (25) minutes. Peak flow is defined for the purpose of this rule to mean the peak flow of the plant anticipated for the season in which Class A effluent is being produced. The maximum number of times a facility could exceed on this basis is twice in one (1) week, both of which times are required to be immediately reported. Failure to report or exceeding more than twice in one (1) week are sufficient grounds for the Department to require the system to be shut down for inspection and repair. ~~(4-6-05)(12-7-05)T~~

b. Redundant facilities, including, but not limited to, monitoring equipment and treatment trains shall be required. (4-6-05)

c. Standby Power sufficient to maintain all treatment and distribution works shall be required for the Class A effluent use. An alternative to this is to provide standby power sufficient for basic treatment and for automatic by-pass of filtration directly to an alternative disposal option or diversion to lined storage. (4-6-05)

d. Standby treatment filter units in fully operable condition capable of treating peak flow shall be plumbed and wired in place for immediate use. Peak flow is defined for the purpose of this rule to mean the peak flow of the plant anticipated for the season in which Class A effluent is being produced. An alternative to this is automatic by-pass of filtration directly to an alternative disposal option or diversion to lined storage. ~~(4-6-05)(12-7-05)T~~

08. Other Class A Effluent Requirements. (4-6-05)

a. Minimum treatment system size shall be ten thousand (10,000) gallons per day of wastewater flow being treated. (12-7-05)T

~~a.b.~~ Five (5) Day Biochemical Oxygen Demand (BOD5) shall not exceed five (5) mg/L ~~and Total Organic Carbon (TOC)~~ shall not exceed five (5) mg/L for ground water recharge systems, and ten (10) mg/L each for residential irrigation and other non-recharge systems, based

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on a monthly arithmetic mean as determined from ~~daily~~ weekly composite sampling. ~~Composite samples shall be comprised of at least six (6) flow proportionate samples taken over a one (1) day period at the point of compliance.~~ (4-6-05)(12-7-05)T

~~b. Total Suspended Solids (TSS) prior to disinfection shall not exceed five (5) mg/L based on a monthly arithmetic mean as determined from daily composite sampling. Composite samples shall be comprised of at least six (6) flow proportionate samples taken over a one (1) day period at the point of compliance.~~ (4-6-05)

c. The pH as determined by daily grab samples or continuous monitoring shall be between six point zero (6.0) and nine point zero (9.0) inclusive. (4-6-05)(12-7-05)T

d. Residual Chlorine at the point of compliance shall be not less than one (1) mg/L free chlorine after a contact time of thirty (30) minutes at peak flow. If an alternate disinfection process is used, it must be demonstrated to the satisfaction of the Department that the alternative process is comparable to that achieved by chlorination with a one (1) mg/L free chlorine residual after thirty (30) minutes contact time. (4-6-05)

e. For any type of ground water recharge system, the Class A effluent must also meet ground water quality standards per IDAPA 58.01.11, "Ground Water Quality Rule," at the point of compliance, and comply with the remaining sections of the "Ground Water Quality Rule". For these types of ground water recharge systems utilizing Class A effluent municipal reclaimed wastewater, the applicant shall propose to the Department for review and approval, the applicable testing requirements for the effluent as it relates to the primary and secondary ground water standards, as well as background ground water quality. Ground water recharge site locations shall be a minimum of ~~two~~ one thousand (≥1000) feet from any down gradient drinking water extraction well and shall also provide for a minimum of ~~one (1) year of storage~~ six (6) months time of travel in the aquifer prior to withdrawal. The minimum requirements for site location and aquifer storage time may also be greater depending on any source water assessment zone studies for public drinking water wells in the area. The owners of these systems must control the ownership of this down gradient area to prohibit future wells from being drilled in the impact zone of the ground water recharge system. The Idaho Department of Water Resources requires additional permits for ground water injection wells. (4-6-05)(12-7-05)T

f. A filter to waste operational criteria is required for all Class A effluent filtration facilities for each time a filter starts up. The filter will automatically filter to waste until the effluent meets the required turbidity standard. (4-6-05)

g. Additional information in the form of reports by qualified soil scientists, professional geologists, professional engineers, or other qualified individuals relating to environmental assessments, nutrient management plans, or water rights issues shall be submitted to the Department at the pre-application conference or with the application and must be approved by the Department prior to permit issuance. (4-6-05)

h. Requirements for Class A effluent distribution system operators. All operators of Class A effluent distribution systems, including operators of the distribution system from the wastewater treatment plant to the point of compliance or point of use or point of sale, as applicable, and those operators that are employed by buyers of the Class A effluent for subsequent

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~~use, including home occupants, shall have the following qualifications. Operators shall have a high school diploma or GED or equivalent. Operators shall be trained, by a qualified manufacturer's representative, in the use and repair of the particular distribution system to be operated. Operators shall be trained in the concepts and safety issues of wastewater reuse, including viral infection issues, by the licensed operator of the particular wastewater treatment plant providing the Class A effluent to the particular system in use~~ be required to sign a utility user agreement provided by the utility providing the Class A effluent that states that the user acknowledges that the user understands the origin of the effluent and the concept of agronomic rate for applying the Class A effluent. Contracts for sale of Class A effluent for subsequent use shall also ~~require these standards~~ include these requirements. Individual homeowners ~~shall not~~ are allowed to operate or maintain Class A effluent distribution systems. Providers of the Class A effluent shall undertake a public education program within its service area to teach potential customers the benefits and responsibilities of using Class A effluent (4-6-05)(12-7-05)T

602. DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY OF CLASS A EFFLUENT RECLAIMED WASTEWATER SYSTEMS.

No person shall proceed, or cause to proceed, with construction of a new class A effluent reclaimed wastewater system until it has been demonstrated to the Department that the new Class A effluent reclaimed wastewater system will have adequate technical, financial, and managerial capacity. Demonstration of capacity shall be submitted to the Department prior to or concurrent with the submittal of plans and specifications, as required in Section 39-118, Idaho Code, and Subsection 601.02.a. of these rules. The Applicant must obtain Department approval of the new system capacity demonstration prior to permit issuance and construction. (4-6-05)

01. Technical Capacity. In order to meet this requirement, the Class A effluent reclaimed wastewater system shall submit documentation to demonstrate the following: (4-6-05)

- a. The system meets the relevant design, construction, operating and maintenance requirements of these rules; (4-6-05)
- b. The system has an adequate and consistent source of wastewater; (4-6-05)
- c. A security plan is in place to protect the wastewater source and deal with emergencies; (4-6-05)
- d. The system has trained personnel with an understanding of the technical and operational characteristics of the system; (4-6-05)
- e. A plan for cross-connection control; (4-6-05)
- f. Procedures for emergency response; and (4-6-05)
- g. Quality assurance and quality control plans. (4-6-05)

02. Financial Capacity. A demonstration of financial capacity must include, but is not limited to, the following information: (4-6-05)

- a. Documentation that organizational and financial arrangements are adequate to

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construct and operate the Class A effluent reclaimed wastewater distribution system in accordance with these rules. This information can be provided by submitting estimated construction, operation, and maintenance costs, letters of credit, or other access to financial capital through public or private sources and, if available, a certified financial statement;

(4-6-05)

b. Demonstration of revenue sufficiency that includes, but is not limited to, billing and collection procedures, a proposed rate structure which is affordable and ensures availability of operating funds, revenues for depreciation and reserves, and the ability to accrue a capital replacement fund. A preliminary operating budget shall be provided;

(4-6-05)

c. Adequate fiscal controls shall be demonstrated; and

(4-6-05)

d. Equipment inventory controls shall be in place.

(4-6-05)

03. Managerial Capacity. In order to demonstrate adequate managerial capacity, the owner and/or operator of a new Class A effluent reclaimed wastewater system shall submit at least the following information to the Department:

(4-6-05)

a. Clear documentation of legal ownership of the Class A effluent reclaimed wastewater system, including collection, treatment and effluent distribution systems, and any plans that may exist for transfer of that ownership on completion of construction or after a period of operation;

(4-6-05)

b. The name, address, and telephone number of the person who will be accountable for ensuring that the Class A effluent reclaimed wastewater system is in compliance with these rules;

(4-6-05)

c. The name, address, and telephone number of the system operator;

(4-6-05)

d. A description of the manner in which the wastewater system will be managed. By-laws, restrictive covenants, articles of incorporation, or procedures and policy manuals which describe the management organization structure are a means of providing this information;

(4-6-05)

e. Personnel management policies and a description of staffing, including training, experience, certification or licensing, and continuing education completed by the Class A effluent reclaimed wastewater system staff;

(4-6-05)

f. An explanation of how the wastewater system operators will establish and maintain effective communications and relationships between the wastewater system management, its customers, professional service providers, and any applicable regulatory agencies; and

(4-6-05)

g. Evidence of short-term and long-term planning for future growth, equipment repair and maintenance, and long term replacement of system components.

(4-6-05)

04. ~~Submittal Form.~~ ~~The Department shall provide a standard form to be used in~~

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~~preparing a new system capacity demonstration.~~

~~(4-6-05)~~

054. Consolidation. In demonstrating new system capacity, the owner of the proposed new Class A effluent reclaimed wastewater system shall investigate the feasibility of obtaining water service from an established public water system. If such service is available, but the owner elects to proceed with an independent system, the owner shall explain why this choice is in the public interest in terms of environmental protection, affordability to water users, and protection of public health. (4-6-05)

065. Exclusion. New Class A effluent reclaimed wastewater systems which are public utilities as defined in Sections 61-104 (Corporation), 61-124 (Water System), 61-125 (Water Corporation), and 61-129 (Public Utility), Idaho Code, shall meet the regulatory requirements of the Idaho Public Utilities Commission (IPUC) in Chapter 1, Title 61, Idaho Code, Public Utilities Law, and IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission". Such wastewater systems shall not be required to meet any requirements of Section 602 which are in conflict with the provisions and requirements of the Idaho Public Utilities Commission. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

940. WAIVERS.

Waivers from the requirements of these rules may be granted by the Director on a case-by-case basis upon full demonstration by the person requesting the waivers that such activities for which the waivers are granted will not have a detrimental effect upon existing water quality and uses are adequately protected; and: ~~(4-1-88)~~(12-7-05)T

01. Effect. ~~That such waivers will not have a detrimental effect upon existing water quality and uses are adequately protected; and~~ That the proposed loadings on the site will be di
minimus in both quantity and quality; ~~(4-1-88)~~(12-7-05)T

02. Treatment Requirements. That the treatment requirements are: (4-1-88)

a. Unreasonable with current technology; or (4-1-88)

b. Economically prohibitive. (4-1-88)

941. -- ~~949999~~.(RESERVED).

~~950. PUBLIC AND CONFIDENTIAL INFORMATION.~~

~~**01. Accessibility.** Except as provided in this section or other applicable law, information obtained or submitted pursuant to these rules will be available to the public for inspection and copying during normal working hours. Anyone requesting Department assistance in collecting, copying or mailing public information must tender, in advance, the reasonable cost of those services.~~ ~~(4-1-88)~~

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~~02. Confidentiality.~~ Information concerning a pollution source and submitted to the Director, Board, or Hearing Officer pursuant to these rules which, as certified by the owner or operator of such source, relates to production or sales figures or to processes or production unique to the owner or operator, or tends to adversely affect the competitive position of such owner or operator, shall be only for the confidential use of the Board, Director and Hearing Officer unless: (4-1-88)

~~a. The Board, after a hearing, determines that a claim of uniqueness or adverse effect is unwarranted;~~ (4-1-88)

~~b. The owner or operator expressly consents to disclosure; or~~ (4-1-88)

~~c. Disclosure is required for prosecution of a violation of the Idaho Environmental Protection and Health Act, these rules or a permit, or order issued thereunder.~~ (4-1-88)

~~03. Department Discretion.~~ The Department may decline to release to the public: (4-1-88)

~~a. Inconclusive preliminary data or reports generated as part of ongoing studies; and~~ (4-1-88)

~~b. Information obtained as part of ongoing investigations when release would:~~ (4-1-88)

~~i. Interfere with enforcement proceedings;~~ (4-1-88)

~~ii. Deprive a person of a fair or impartial adjudication;~~ (4-1-88)

~~iii. Discourage informants from disclosing information to the Department;~~ (4-1-88)

~~iv. Disclose investigative techniques or proceedings; or~~ (4-1-88)

~~v. Endanger the safety of Department personnel.~~ (4-1-88)

~~951.—995. (RESERVED).~~

SECTION 996 HAS BEEN RENUMBERED AND MOVED TO SECTION 004

SECTION 997 HAS BEEN RENUMBERED AND MOVED TO SECTION 005

~~998. INCLUSIVE GENDER AND NUMBER.~~

~~For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate.~~ (12-31-91)

~~999. SEVERABILITY.~~

~~The provision of these rules are severable and if a provision or its application is declared invalid for any reason, that declaration will not affect the validity of the remaining provisions.~~ (4-1-88)

ENVIRONMENT, ENERGY & TECHNOLOGY

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.17 - WASTEWATER-LAND APPLICATION PERMIT RULES

DOCKET NO. 58-0117-0502

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2006 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapter 1, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 3, 2005 Vol. 05-8, pages 411 through 413. One public comment was received. This comment was received during the negotiated rulemaking comment period and again during the proposed rulemaking comment period. The proposed rule was drafted in response to the concerns raised in the comment and has not been revised. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov or by contacting the undersigned.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 3, 2005, Idaho Administrative Bulletin, Vol. 05-8, pages 411 through 413.

IDAHO CODE SECTION 39-107D STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations. There is no federal law or regulation that is comparable to the Wastewater–Land Application Permit Rules. Therefore, the changes to these rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which “proposes to regulate an activity not regulated by the federal government”. This Rule does regulate an activity not regulated by the federal government; however, Sections 39-107D(3) and (4), Idaho Code, do not apply because this rulemaking does not propose a standard necessary to protect human health and the environment.

IDAHO CODE SECTION 67-5224(2)(f) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

GENERAL INFORMATION: For more information about DEQ’s programs and activities, visit DEQ’s web site at www.deq.idaho.gov.

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ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this pending rule, contact Rick Huddleston at richard.huddleston@deq.idaho.gov, (208)373-0561.

Dated this 2nd day of November, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Chapter 1, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before August 17, 2005. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The Wastewater-Land Application Permit Rules do not currently require the Department of Environmental Quality (DEQ) to provide public notice or an opportunity for public comment during the wastewater land application permitting process although DEQ has been providing for this. The purpose of this rulemaking is to set out in rule the public participation provisions for the permitting process and to revise the permitting schedule to allow the director 60 days after issuance of a draft permit to issue the final permit. The rules currently allow the director 30 days to issue the final permit. In order to maintain the 180 day permitting schedule, the number of days allowed for the director to make an application completeness determination would decrease from 60 to 30 days. This proposed rule also adds a provision allowing for additional information or consultation between the applicant and the Department if necessary to clarify, modify, or supplement the application.

Idaho Association of Commerce and Industry, Idaho Association of Cities, consulting engineers, existing and potential permittees, and the development community may be interested commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete

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is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to regulate an activity not regulated by the federal government. There is no federal law or regulation that is comparable to the Wastewater–Land Application Permit Rules. Therefore, the proposed changes to these rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which “proposes to regulate an activity not regulated by the federal government”. The proposed rule changes the public participation provisions in an existing program authorized by the Idaho Legislature. It does not propose to expand a regulatory program to an area or activity not regulated by the federal government. Therefore, the rule change itself does not appear to be subject to the requirements of Section 39-107D, Idaho Code.

While the proposed rule just changes the public participation provisions in an existing program, and does not propose to expand regulation to a new activity, the existing program does regulate activities not regulated by the federal government. This existing rule chapter was first adopted in 1988 and therefore was not subject to the requirements of Section 39-107D, Idaho Code, which was enacted in 2002 and amended in 2003. This rulemaking does not propose a standard necessary to protect human health and the environment.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: On June 1, 2005 the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 05-6, page 49, and a preliminary draft negotiated rule was made available for public comment. A meeting was held on June 14, 2005. No members of the public attended the meeting; however, one written comment was received during the negotiated rulemaking period. The proposed rule has been drafted in response to the concerns raised in the written comment.

GENERAL INFORMATION: For more information about DEQ’s programs and activities, visit DEQ’s web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Rick Huddleston at (208)373-0561, richard.huddleston@deq.idaho.gov.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address

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below. DEQ will consider all written comments received by the undersigned on or before August 31, 2005.

Dated this 1st day of July, 2005.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

400. APPLICATION PROCESSING PROCEDURE.

01. Complete Application. If the application is determined to be complete the Director shall provide written notice to the applicant within ~~sixty~~ thirty (~~60~~30) days after receipt of the application which shall specify: (4-1-88)()

- a. The effective date of application, which will be the date of the notice; and (4-1-88)
- b. A projected schedule for processing the permit which lists the tentative dates for: (4-1-88)
 - i. Publication of the preliminary permit decision or application denial; and (4-1-88)
 - ii. The date of issuance of a final permit. (4-1-88)

02. Incomplete Application. If the application is determined to be incomplete the Director shall provide written notice to the applicant within ~~sixty~~ thirty (~~60~~30) days after receipt of the application which specifies deficiencies and specifies additional required information. The Director shall not process an application until it is determined to be complete in accordance with these rules. (4-1-88)()

03. Preliminary Decision/Application Denial. Within thirty (30) days of the effective date of the application the Director shall issue a preliminary decision to prepare a draft permit, or issue a decision denying the application. The applicant shall be notified in writing of the Director's preliminary decision or application denial. Notification shall include a staff analysis of the application and a draft permit if appropriate. (4-1-88)

04. Contents of the Staff Analysis. The staff analysis shall briefly state the principal facts and the significant questions considered in preparing the draft permit conditions or the intent to deny, and a summary of the basis for the draft conditions or denial with references to applicable requirements and supporting materials. (4-1-88)

05. Information or Consultation Before Issuance of Draft Permit or Application Denial. After the application is determined to be complete, additional information or consultation between the applicant and the Department may be needed to clarify, modify, or supplement the application. This action may be initiated by the Director or the applicant. ()

056. Issuance and Contents of the Draft Permit. ()

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a. Issuance and Contents of the Draft Permit. The Director shall issue a draft permit to the applicant within sixty (60) days of issuing a preliminary decision to prepare a draft permit. The draft permit shall be in the same form as a final permit and shall specify conditions of operation and management which will be required for the issuance of the permit. Permit conditions shall protect the environment and the public health from the hazard potential of an existing or proposed wastewater treatment system. (4-1-88)()

b. Public Comments. The Department shall provide notice to the public of its issuance of a draft permit. The public may provide written comments for a period of time and in a manner specified in the Department's notice. The Department may, in its discretion, provide an opportunity for the public to provide oral comments. ()

~~**06. Information Requested After Effective Date of Application.** The Director may, by written request, require additional information after the effective date of application to clarify, modify, or supplement the application.~~ (4-1-88)

07. Issuance of the Final Permit. The Director shall issue a final permit decision in writing to the applicant within ~~thirty~~ sixty (360) days from the issuance of the draft permit, except the Director may issue the decision at ~~either an earlier or~~ a later date in response to a written request ~~by the applicant~~ to extend the public comment period. (4-1-88)()

08. Effective Date of Final Permit. The final permit shall become effective upon date of issue unless a later effective date is specified in the permit. (4-1-88)